

EXHIBIT A

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EXPERIENCE

SCHMID LAW LIBRARY, UNIVERSITY OF NEBRASKA – LINCOLN COLLEGE OF LAW

Lincoln, Nebraska

Director of the Law Library and Professor of Law (2000 -)

Tenured. Responsible for the overall management and development of the law library faculty (4) and staff (8), programs, resources, budget and planning. Teach first year and advanced legal research. Law Library has collection of nearly 360,000 and budget of about \$1.3 million. Responsible for programming and design of 20,000 sq ft law library addition and renovation, 2000. Second renovation presently underway that involves two of three floors.

– *Fall 2011, Visiting Academic Research Fellow, Harvard Law School Library, Library Innovation Lab. On sabbatical leave from UNL.*

ALLEN MERCER DANIEL LAW LIBRARY, HOWARD UNIVERSITY SCHOOL OF LAW

Washington, District of Columbia

Associate Dean for Information Systems Technology

Director of the Law Library and Professor of Law (1994 - 2000; Assoc. Dean 1998 - 2000)

Promoted with tenure in 1999. Responsible for the overall management and development of law school computing resources, the law library professional (7) and classified staff (11), teaching advanced legal research, and long range planning. Law Library has a collection of approximately 300,000 and budget of \$1.9M. Programmed and designed 70,000 sq ft law library facility.

REGENT UNIVERSITY SCHOOL OF LAW, LAW LIBRARY

Virginia Beach, Virginia

Director of the Law Library and Associate Professor of Law (1991-1994)

Responsible for the overall management and development of the law library faculty (5) and staff (6.5), programs, budget and long range planning and teaching first-year and advanced legal research. Law Library has a collection of 280,000 volumes. Programmed, designed and supervised construction of 35,000 sq ft law library facility. Supervised move into new facility.

LITTLER, MENDELSON, FASTIFF & TICHY

San Francisco, California

Head Librarian (1988-91)

Responsible for all aspects of library service for law firm of 190 attorneys in 11 offices around the country. Administered budget of over \$700,000 per year. Planned and implemented automated library systems, planned training program for new attorneys, summer associates, paralegals, and secretaries. Member, marketing committee, library committee. Responsible for professional staff of two and four FTE library clerks. Programmed and designed new law library facility.

UNIVERSITY OF NEBRASKA COLLEGE OF LAW LIBRARY

Lincoln, Nebraska

Public Services Librarian (1986-88)

Responsible for all aspects of public service, including redesign of circulation system, inter-library loan program, reserve room policy, exhibit program, reference and computer lab. Wrote library user's manual. Responsible for two-and-a-half full time professionals and paraprofessionals and 12 student desk attendants.

UNIVERSITY OF TEXAS, TARLTON LAW LIBRARY

Austin, Texas

Head of Reference (1986) Reference Librarian (1984-86)

Responsible for supervision of the reference staff, including scheduling and professional continuing education. Also responsible for maintaining bulletin boards, information counters, reference policies and CALR training for a faculty of 100 and a first year class of 500. Faculty advisor, Phi Alpha Delta.

HOPKINS, MITCHELL & CARLEY

San Jose, California

Managing Librarian (1983-84)

Responsible for library: organizing, revitalizing and cataloging library collection. Planned new acquisition strategy, budget and layout of library.

IRELL & MANELLA

Los Angeles, California

Legal Research Aide (1977-78)

General library research and reference; extensive out-of-office research and contact with a wide variety of libraries and administrative agencies in the Los Angeles area.

THE HONORABLE DAVID W. WILLIAMS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Los Angeles, California

Law Clerk-Crier (Externship) (1980)

Drafted memoranda analyzing and making recommendations for rulings on motions; speech writing; bench memo for Ninth Circuit Court of Appeals.

UNIVERSITAS ANDALAS (Professional University) & IKIP (Teacher Training College)

Padang, West Sumatra, Indonesia

English Instructor (1976-77)

Planned and implemented English courses for college students and faculty. This was a volunteer position under auspices of *Volunteers in Asia (VIA)*, Stanford, CA.

EDUCATION

Library Science

UNIVERSITY OF TEXAS

Austin, Texas - M.L.I.S., 1986

Law School

SOUTHWESTERN UNIVERSITY SCHOOL OF LAW

Los Angeles, California - J.D., 1981

- * Law Review: Editor 1980-81; member 1979-80
- * Dean's scholarship 1980-81
- * Computer Law Journal: Editor 1978
- * The Commentator (school newspaper): Editor 1980-81; staff writer 1979-80
- * Phi Alpha Delta: Vice-Justice 1980-81; member 1978-80
- * The Advocate (yearbook): Editor 1981
- * Graduation Committee 1980-81
- * Certificate of Distinguished Service 1981

Undergraduate

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

Santa Cruz, California - B.A., 1976

Double major, Anthropology and Religious Studies.

- * Honors: Graduated with Honors in Religious Studies and received Honors on thesis in Anthropology

SOUTHERN OREGON COLLEGE

Ashland, Oregon, 1971-72

- * Honors: Dean's List

Awards and Honors:

Frederick Charles Hicks Award, Recipient, 2020. Awarded by the Academic Law Libraries Section of the American Association of Law Libraries for "Outstanding Contributions to Academic Law Librarianship."

Jospeh L. Andrews Bibliographical Award, Recipient, 2003. For National Survey of State Laws, Sixth Edition. Awarded by American Association of Law Libraries. Awarded to recognize significant contributions to legal bibliographical literature.

Kenneth L. Hirsh Award for Distinguished Service, Recipient, 2010. Awarded by American Association of Law Libraries for distinguished service to the library community by furthering awareness of computing services in law libraries.

Depository Library Council, Appointment 2021. Three year appointment. Appointed to the Working Group on the Feasibility of an All-Digital Depository Library Program.

PUBLICATIONS

Books

National Survey of State Laws, Ninth Edition *in process* (Buffalo: Hein 2022)

National Survey of State Laws, Eighth Edition (Buffalo: Hein 2019)

Seventh Edition (Buffalo: Hein 2015)

*Winner 2003 Joseph L Andrews Bibliographical Award (AALL)

Sixth Edition, Editor (Detroit: The Gale Group, 2008)

Fifth Edition, Editor (Detroit: Thomson-Gale, Inc. 2005)

Fourth Edition, Editor (Detroit: Thomson-Gale, Inc. 2003)

Third Edition, Editor (Detroit: The Gale Group, Inc., 1999)

Second Edition, Editor (Detroit: Gale, Inc., 1997)

First Edition, Editor (Detroit: Gale Research, Inc., 1993)

Landmark Supreme Court Cases, Third Edition (Facts on File 2017) *eBook*

Landmark Supreme Court Cases, Second Edition, with Roy Mersky (Facts on File 2011).

The Spirit of Law Librarianship, Second Edition. Co-Editor with Prof. Roy Mersky (Chicago: Alert Publications, Inc., 2004).

Concordance of Federal Legislation, with A. White (Buffalo, NY: Wm. S. Hein & Co., Inc. 1998).

Introduction: (Booklet) The Principles of Natural Law and The Principles of Politic Law by J.J. Burlamaqui, 1748, 1752. Reprint by Legal Classics, Gryphon Editions, 1994.

The Spirit of Law Librarianship: A Reader, Co-Editor with Prof. Roy Mersky (Littleton, CO: Fred B. Rothman & Co., 1991).

Steering Committee Member, Section Editor, and Contributor, Yellow Pads to Computers, First and Second Editions (Chicago: American Bar Association, 1987, 1991).

Faculty Writings: The University of Texas School of Law, No. 31, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1986).

New Frontiers in Forensic and Demonstrative Evidence, No. 24, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1985).

Articles/Contributions

“Law Librarians’ Roles in Modern Law Libraries,” chapter in Academic Law Library Director Perspectives, edited by Michelle M. Wu (Buffalo, NY: Wm. S. Hein & Co., Inc. 2015)

“Tools of Our Trade,” AALL Spectrum Sept/Oct 37 (2013)

“Much Ado about Authentication,” 23 Trends in Law Library Management and Technology 2 (2013)

“Publication in the Digital Age,” 31:3 The Catchline 10 (Nov-Dec 2012)

"Who Gets to be the Expert? Legal Research Skills Certification in Legal Education," 28 Legal Reference Services Quarterly 271 (2009)

"Reflections on Ranganathan's Five Laws of Library Science," 95:3 Law Library Journal 411 (Summer 2003).

"Reflections on the Art of Mentoring," 14:3 Trends in Law Library Management and Technology (2004).

"The Use of Law Reviews in Modern Legal Research: The Computer Didn't Make Me Do It!" 90:1 Law Library Journal 59 (Winter 1998).

"Finally, Handheld Computers Have Come of Age," National Law Journal, page C4, July 1, 1996.

"PDA's: Not Just Toys Any More," Legal Assistant Today, July 1996.

"PDA: The Promise of Technology," Legal Information Alert, April/May 1996.

"Assault of the Citadel: Romancing the Crown Jewels of West Publishing," 14:1 Legal Information Alert, page 1, January 1995.

"Do You Need a Library?" Chapter 1, Planning The Small Law Office Library, Ed. Catherine Pennington. (Chicago: American Bar Association. 1994.

"FREESTYLE by Lexis: A Natural Development." 13:2 Legal Information Alert 1 (February 1994).

"WIN: 'It's the Natural Way'." 11: 6 Legal Information Alert 1 (November/December 1992).

Product Review: "Can Your Firm WIN With New Search Approach?" Vol. x, No. 9 Leader's Legal Tech Newsletter page 1 (December 1992).

"Navigating the Haystack: Legal Research Tips You Can Use," 8:6 Legal Assistant Today 52 (July/August 1991).

"What's New In On-Line Legal Databases," Law Office Computing 107 (Summer 1991).

"The Myth and Magic of Computer-Assisted Legal Research," 11:2 California Lawyer 57 (1991).

"The Collier Bankruptcy Law Library on CD-ROM" (with Leslie Ann Forrester Sherren), 10: 6 Legal Information Alert 1 (June 1991).

"Research Instruction for Partners, Associates & Summer Associates," Paper presented at Conference on Teaching Legal Research in Private Law Firm libraries sponsored by Mead Data Central, held April 1990 in Washington, D.C. Papers presented at the conference were compiled and published in Proceedings of the Conference on Teaching Legal Research in Private Law Firm Libraries (Littleton, CO: Fred B. Rothman & Co., 1991).

"The Developments in the Practice of Law and Their Influence on the Enterprise of Law Publishing," essay for the Symposium of Law Publishers, special issue, Legal Reference Services

Quarterly, (29 Numbers 3/4 1991). Also published as a monograph by Howorth Press, Symposium of Law Publishers, Thomas A. Woxland, Editor. (NY: Haworth Press, Inc., 1991).

"The Future of CALR in Law Firms," 2:2 Trends in Law Library Management and Technology 1 (1988).

"A History of Legal Periodical Indexing," 7 Legal Reference Services Quarterly 35 (1987).

Note, "The 'New' Supervisory Power and Judicial Impotency: The Loophole in the Fourth Amendment," 12 Sw. U.L. Rev. 449 (1981).

Miscellaneous

Depository Library Council, member. Three year term, 2021-2024. Advisory committee of the Government Publishing Office.

Task Force to Consider an All Digital GPO, 2022

FastCase 50 honoree, 2014. For recognition as a library innovator.

Leader, Law Library Tour of China. People to People. Fall, 2008.

Podcast, "Law Librarian Conversations." Broadcasts on the 3d Friday of the month. Available for downloads on iTunes and lawlibcon.classcater.net. Average numbers of listeners is about 550. Ran for 10 years.

Consultant, Liberty University School of Law, Lynchburg, VA. Hired to plan law library for planned law school. Responsible for strategic planning, hiring of initial staff, selecting collection, negotiating with vendors and planning layout of the library, 2003 – present.

Consultant, Handong University, Korea. Hired to help plan and build an American Law Library for a planned law school, 2001-2002.

Columnist, "Legal Research Tips," bi-monthly column for Legal Assistant Today, 1991-1999.

Columnist, "Database News," monthly column for Legal Information Alert, 1993- present.

Columnist, "Law Library Hi-Tech," monthly column for the Monthly Newsletter of the American Association of Law Libraries 1990-1993 (term expired).

Interview, Legal Line (Column): "What's Wrong with CD-ROM?" Cary Griffith, Information Today, page 16, July/August 1992. (My views on CD-ROM were the topic of this column for which I was interviewed extensively by Mr. Griffith.)

Profile, "Library is Guided by Three Principles," appeared in California Law Business (supplement to The Daily Journal), June 11, 1990.

Various editorials, Automatome, The Newsletter of the Automation and Scientific Development Special Interest Section of AALL, 1986-1989.

Moderator and Panelist. "Law Firms and Legal Research." a roundtable discussion on the legal research skills training of law students and new associates. A transcript was published in a special Legal Research Supplement to the January 26, 1990 issue of The Recorder, a San Francisco legal newspaper and host of the panel discussion.

Various book reviews, American Reference Books Annual, 1986-present,

Various book reviews, Legal Information Alert, 1982- present.

MEMBERSHIPS

American Bar Association (ABA), 1984 - present; American Association of Law Libraries (AALL), 1982 - present; Association of American Law Schools (AALS) 1991 - present; Mid America Association of Law Libraries (MAALL) 2000 - present; American Library Association (ALA), 1984 - present; Nebraska Library Association (NLA), 2015 - present; SCRIBES, American Society of Writers on Legal Subjects, 1994 - present; Big Ten Law Library Alliance, steering committee (BTLLA) 2013 - .

Committees:

*** AALL -**

Automation and Scientific Development (now Computer Services) Special Interest Section:
Newsletter (Automatome) Editor, 1986-89; Chair, 1989-90;
Member, 1985-

Awards Committee, member, 2007- 2010, 2020-2023.

Government Relations Committee, 2014-2017; Chair, 2016

Indexing Legal Periodicals Advisory Committee, member, 1989-92 (three-year term;
Chair, 1990, 1991

Law Library Journal/Spectrum Editorial Advisory Committee, 2004-2007 (three-year term;
Chair, 2005, 2006)

Publications Committee, member, 1987;

Research Committee, 1997-1999 (three-year term), Chair 1998-1999.

Recruitment Committee, member, 1994-1997 (three-year term)

Special Committee to Promote the Development of Resources for the Legal Information Community. 1994-1995. (Committee finished its charge.)

*** AALS**

Chair, Law Libraries and Legal Information Section, 2021

*** MAALL-**

President, 2011.

Member Board of Directors, Mid America Law Library Consortium (MALLCO), 2000-present.

*** ABA -**

Library Committee, Economics of Law Practice Section (ABA): Vice Chair, 1986-88;
Member, 1986 - present;

Videotape Equipment Utilization Committee, Economics of Law Practice Section (ABA), Chair,
1988-90.

Section on Legal Education and Admission to the Bar, various site inspection teams, see "Service Activities" section, below.

*** NLA**

Intellectual Freedom Roundtable, 2016 - .

PROFESSIONAL ACTIVITIES

Presenter, "Taking the Fright out of Copyright," Annual meeting, Nebraska Library Association Annual Meeting, 2017

"Getting Real Law: Navigating the Internet for Reliable Sources of Law and Legal Materials," Annual meeting, Nebraska Library Association Annual Meeting, 2017

Various presentations at Doane College, Crete and Nebraska Wesleyan University to faculty on topic of copyright and classroom materials.

Presenter, "The Art of Social Networking in Law Libraries," Annual Conference of Ninth Circuit Branch Librarians, May 2010, Tucson, AZ.

Leader, "Legal Research and Legal Science Professional Delegation to China." Lead People to People Citizen Ambassador delegation to Beijing and China. The delegation visited four universities with law schools, two law publishing companies and the Shanghai Public Library in a span of eleven days. October 24 – November 3, 2008.

Presenter, "ABA Questionnaire: New and Improved or...." Panelist, responder.
"Budgeting in a Recession; Or, Getting Blood for Turnips." Speaker.

Presenter, "Teaching the Teachers," Fall 2007, University of Texas School of Law. Panelist on Teaching Legal Research.

Presenter, "Where's My Jet Pack?" program at MAALL Annual Meeting, Fall 2005, Grand Forks, ND.

Co-creator and presenter, Legal Research for Non Law Librarians. Half-day seminars presented to general academic, public, school and prison librarians. Some programs have been offered under the auspices of the Nebraska Library commission, some have been offered directly to interested groups. Program was presented four times in its first year, including in remote locations around the state.

Presenter, Law College's Estate and Gift Trust CLE program, 2001, 2002, 2003.

Faculty, Law Librarian's Society of the District of Columbia, Research Instruction Program, 1995, 1996, 1998.

Presenter, "Issues Confronting the Modern American Law School Library," Legal Information Seminar (for Russian legal educators), International Law Institute, October 7-25, 1996, Howard University School of Law.

Coordinator, "Managing the 'New' CALR in Law Libraries," AALL Annual Meeting Program, Indianapolis, IN, 1996.

Faculty, "Legal Looseleaf Services," LLSDC, Education Committee's Legal Research Institute, 1995, 1996.

Presenter, "Online Live! Natural Language," Online '94/CD-ROM Conference and Exposition, San Francisco, CA, October 1994.

Panelist, "Religious Educational Institutions: Law Library Hiring Practices in a Changing Environment," AALL Annual Meeting, Seattle, WA, 1994.

Westlaw Advisory Board; member, 1990-1993; 2008–present (three-year term)

Advisory Board, Oceana Publications, Inc., 1993-2000.

Participant (by invitation only), "The McCrate Report: Where Do We Go From Here?" Sponsored by the American Bar Association, University of Minnesota Law School, and West Publishing Company. September 30 - October 2, 1993.

Participant, CALI/LEAP, Conference for Law School Computing Professionals, Chicago-Kent College of Law, Chicago, IL, June 1993.

Participant (by invitation only), "Canadian Law & Legal Literature," Biennial conference sponsored by Duke University Law Library and the Duke University Canadian Studies Center.

"Access to Legal Information in a Multilingual Culture," March 1992;

"Canada and the World," March 1994.

Faculty, "Hot Topics in Employment Law," Managing the Private Law Library 1991: Management Challenges, New Technology, and Planning for the 1990s, Practicing Law Institute, San Francisco, CA 1991.

Faculty Member, "Survey of Spreadsheets and Other Computer Applications in Financial Planning," AALL Pre-conference: Institute on Financial Management of Law Libraries," St. Paul, MN, 1990.

Coordinator and Moderator, "The Modern Law School Computer Lab: The Evolution of the Typing Room in the Age of Technology," AALL Annual Meeting, Minneapolis, MN 1990.

Faculty Member, "Teaching Legal Research to Legal Secretaries," AALL Pre-conference "Institute on Teaching Legal Research," Sacramento, CA, 1989.

Co-Director and Faculty Member, AALL Pre-conference "Workshop on the Fundamentals of Microcomputers," Reno, Nevada, 1989.

Coordinator and Moderator, "Micros to Mainframes: Annual Software, Hardware, and Applications Update," 1987, 1988, 1989.

Speaker, Panelist, "Organizing Your Law Library," ABA Annual Meeting, Toronto, 1988.

COMMUNITY/SERVICE ACTIVITIES

Member, Site Inspection Team, ABA Accreditation Committee:
University of Arkansas School of Law, 2000, 2013
University of Montana School of Law, 2001, 2017
University of Indiana, Indianapolis, School of Law, 2003
New York Law School, NYC, 2004
Michigan State University, School of Law, Spring 2007
West Virginia University, School of Law, Winter 2009
Thomas Cooley Law School, Spring 2011
University of Oklahoma, Fall 2016
University of Arizona, 2019

Member, University of Nebraska Faculty Senate Library Committee, 2000-present.

Senator, University of Nebraska Faculty Senate, 2002–present (three-year term); reelected, 2005; Member Executive Committee, 2016 - ;

Member, Faculty Senate Information Technology and Services Committee, 2012 - ; Chair, 2015-2017, 2020-

Member, Faculty Senate Parking Advisory Committee. I have served on this committee for many years and served as chair at least twice.

Chair, Committee on Committees, University of Nebraska Faculty Senate, 2008. One year term. Member, 2007–present.

Member, Committee on Committees, University of Nebraska College of Law, 2008–present.

Coordinator, Food Net distribution center, St John's Orthodox Church, Lincoln. FoodNet coordinates the distribution to the poor, extra food from local food retailers and producers. The center I coordinate distributes food weekly.

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMSON REUTERS ENTERPRISE
CENTRE GMBH and WEST PUBLISHING
CORPORATION,

Plaintiffs,

v.

ROSS INTELLIGENCE INC.,

Defendant.

Case No. 1:20-cv-00613-SB

**REPORT OF DEFENDANTS' EXPERT
PROFESSOR RICHARD LEITER, J.D.**

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I. INTRODUCTION

1. My name is Professor Richard Leiter. I have been retained by Defendant ROSS Intelligence, Inc. (“ROSS”) to explore and opine on the origin and development of the West Digest and Key Number System. Particularly, I was asked to explore and opine on how the system originated, where it originated from, how it came to be known as the “West” Digest and Key Number System, and how the system developed. My hourly rate to prepare this report and to testify at deposition and trial is \$400 per hour. My compensation is not dependent upon the outcome of this case. I have never been retained as an expert or testified in federal or state court as an expert. The matters referenced in this report are based upon my personal knowledge, and if called upon as a witness, I could testify completely as to these matters.

II. QUALIFICATIONS

2. I am the Director of the Schmid Law Library and Professor of Law at the University of Nebraska College of Law. I have held this position since 2000. From 1986 to 1988, I worked as a Public Services Librarian also at University of Nebraska College of Law. Prior to these positions, I was the Associate Dean of Information Technology & Services and Professor of Law at Howard University School of Law. I also held the position of Library Director and Associate Professor at Regent University School of Law. I have held other positions as reflected in my curriculum vitae, attached hereto as Exhibit 1.

3. Over my career, I have taught courses relating to legal research. The class that I currently teach is called Advanced Legal Research. Its purpose is to provide an advanced exposure to the tools of legal research: the nature of and philosophies surrounding organization and production of the materials themselves. *See* Exhibit 1 for a list of additional classes that I have taught.

4. I have written on issues pertaining to law libraries, legal research, and legal information technology. My book, *National Survey of State Laws*, is in its eighth edition, and it was named An Outstanding Resource by the New York Public Library. The seventh edition, published by WM S Hein & Co., Inc., was released in January 2016 along with a database that contains all

editions. In 2003, it won the prestigious Andrews Bibliographical Award from the American Association of Law Libraries and has been cited three times by the United States Supreme Court. *See* Exhibit 1 for a list of my publications.

5. I received a Bachelors of Arts Degree from the University of California, Santa Cruz. I received a J.D. from Southwestern University School of Law. I received a Masters in Library and Information Science from the University of Texas, Austin.

6. I reserve the right to respond to any evidence or information Plaintiffs West Publishing Corporation and Thomson Reuters Enterprise Centre GmbH (“Plaintiffs”) may present concerning the subject matter of this report or any additional information provided by Plaintiffs following this report. It may be necessary for me to revise or supplement this report, or submit a supplemental or responsive report, based on any supplemental or responsive report of Plaintiffs, and I reserve the right to do so.

7. I may be asked to present demonstrative evidence at trial, and I reserve the right to do so.

I. MATERIALS CONSIDERED

8. In forming my opinions, I have considered, in addition to my knowledge and experience referenced in my Curriculum Vitae, documents provided to me in the course of this litigation, including pleadings, non-confidential documents produced by the parties, as well as publicly available information. The materials which I considered in forming the opinions set forth in this report are cited directly in this report and are the documents listed in Exhibit 2.

II. SUMMARY OF OPINIONS

9. I have concluded that the system we know today as the West Digest and Key Number system was developed by Benjamin Vaughan Abbott and Austin Abbott (“the Abbotts”) in the early Nineteenth Century after extensive study of existing treatises, case reporters and digests. The Abbotts intentionally avoided creating anything, but rather adopted one of a few different pre-existing systems of organizing the law which system was, in their view, a practical, utilitarian

method of indexing the law, as expressed at the time by the courts so that judicial opinions could be located.

10. The Abbotts brother's system was expressed in two digests published in the first half of the Nineteenth Century, the New York Digest, and the American Digest. Both were well regarded and well established. Following the publication of the Abbott brother digests, the West Publishing Company began publishing its flagship publication, the National Reporter System that endeavored to publish comprehensively cases from every jurisdiction in the United States. John B. West, founder of West Publishing Company, realized the need for an index to the volumes of cases his company was publishing, and in the 1889 acquired the American Digest System, and systematically indexed and digested every existing case that West published using the index system that the Abbotts adopted. In addition to adopting the Abbotts' index system, West proselytized that system seeking to have it adopted as a universal standard classification system. To that end, West published manuals containing, not only the classification system itself, but a detailed description of how it should be applied and used by every reporter, indexer, and digester of case law. In its own words, West offered the digest system to competitors and any publisher who endeavored to publish American Case Law.

III. THE FORMATION OF THE WEST KEY NUMBER AND HEADNOTE SYSTEM

11. In 1826, Chancellor James Kent wrote that the indiscriminate publication of cases was leading the law into chaos.¹ This was at a time when there were less than 1,000 volumes of the law published. Why did he make this statement about the state of American common law? It is a universal presumption that even though information is a critical resource for all of civilization, if it cannot be found, it is virtually worthless.² At the time that Kent made this general complaint, the publication of case law followed the then tradition of our legal system that relied almost entirely

¹ James Kent, "Of Reports of Judicial Decisions," in *Commentaries on American Law Vol. 1* (1826). In Lecture XXI, "Of Reports of Judicial Decisions," Kent makes a compelling case for restraint in the publication of judicial decisions, but also for a systematic indexing and organization of them. *Id.* at 439.

² U.S. Nat'l. Comm'n on Libraries and Informational Science, *A Comprehensive Assessment of Public Information Dissemination, Final Report Vol. 1* at 1-18 *et seq.* (2001).

on individual lawyers, judges, and commercial publishers to publish the decisions of the courts. This method of publication functioned adequately at the time because the reporters (both individuals and publishers) were able to selectively report court opinions that were deemed worthy of inclusion in the reports and were able to edit opinions for clarity, annotate them when the editors felt it was necessary, or simply exclude opinions that the reporters considered aberrant, wrong, or poorly reasoned for one reason or another. Judges themselves could decide which of their opinions were to be published and which should be withheld because they may set a precedent that the judge did not agree with, or for any numbers of reasons simply did not want made public. Sometimes these were cases decided “on the facts, not on the law.”

12. In addition to this system of publication, there were the “reception statutes”³ that influenced the publication of judicial opinions. At the beginning of United States’ history, there was generally an aversion to using or relying on the cases of England, from whom the United States had recently won independence. Thus, many states passed what became known as “reception statutes,” that instructed courts to use the opinions of American cases instead of English cases whenever possible. The reception statutes also encouraged states to publish the opinions of their courts in order to build a corpus of case law for lawyers to use that was distinct from English law. Interestingly, even though the reception statutes generally required states to publish their own case law, the states at the time were sparsely populated and there was relatively little litigation, which meant that there were not enough cases decided each year to accumulate hard bound volumes of reports. Important cases were variously reported in any number of privately published reporters and periodicals.⁴ It was generally understood that the opinions of the courts were public record, but there was a dearth of official case reporters published at the time. The federal government eventually made

³ Kent C. Olsen, Morris L. Cohen & Robert C. Berring, *How to Find the Law* at 17 (9th ed. 1989)

⁴ See generally West Publishing Co., Preface to *The Federal Cases Comprising Cases Argued and Determined in the Circuit and District Courts of the United States*, Book 1 (1894) for a discussion of the process by which the cases for the set were compiled.

provisions for the publication of the opinions of the U.S. Supreme Court, but none was made for the publication of federal Circuit or District Courts.⁵

13. During the early history of the United States, a number of private commercial publishers exploited the void and produced a number of reporters.⁶ The federal courts relied on various individuals, including some who were informally designated by local courts, to compile and publish their reports which resulted in an informal set known as the U.S. Circuit Court of Appeals Reports. Throughout the Nineteenth Century, as a result of the reception statutes, the increasing population, and resulting commercial activity, the numbers of lawsuits that came before the courts increased. However, since these cases were primarily published in annual compilations, the indexing was primitive and usually confined to single volumes or small runs produced by the named reporter.⁷ American Law Reports (“ALR”)⁸ was the first commercial venture that capitalized on the small volume of opinions by producing a national reporter that published leading cases from all jurisdictions, including ones that had national importance. The ALR began as a series of three reporters, collectively known as the Trinity Series, and was a multi-jurisdictional set of reporters that was able to serve the needs of lawyers and judges of the time by reporting cases in timely fashion with a system of access that facilitated case law research.⁹

⁵ The reasons for the lack of publication of the Federal Courts was partly due to their lack of general jurisdiction through most of the Nineteenth Century. *See generally* Edwin Surrency, *History of the Federal Courts* (1st ed. 1987); *see also* Review essay of *The Federal Reporter* published in THE N.Y. TIMES, Oct. 2, 1880, at 8.

⁶ Morris L. Cohen & Robert C. Berring, *How to Find the Law* at 20-22 (8th ed. 1983).

⁷ Authors of the early nominatives developed special interests; thus, we find reporters called *Jones’ Evidence Cases*, *Smith’s Commerce Cases*, and *Rowe, Interesting Cases*, plus many more that include reporters on maritime law, family law, and other topics, each named after the special interests of their respective authors. The value of these reporters relied heavily upon the expertise of the reporter to select the most important, useful, and valuable cases from among the much larger volume of cases being decided by the judges. *See generally* Cohen, *supra* note 6 at “Chapters 3 & 4” for an excellent summary of the process. Comparatively, today, it is my understanding that West editors are trained in broad indexing across many topics and not have similar specialized subject matter expertise.

⁸ In addition to ALR, there were others including William M. McMinney & N. Noyes Greene, *Annotated Cases American and English: Containing the Most Important Cases Selected from the Current American, Canadian, and English Report* (1906-1911); William M. McMinney & N. Noyes Greene, *Annotated Cases American and English: Containing the Most Important Cases Selected from the Current American, Canadian, and English Report* (1912-1918); Lawyers’ Co-operative Publishing Co., *The Lawyer’s Reports Annotated* (1888-1905) Vol. 1-70 (1906).

⁹ Access was facilitated by a combination of indexes and digests.

14. Around the turn of the Twentieth Century, there were also a number of calls to streamline the numbers of opinions in the canon of case law. The Restatements were the result of such an attempt.¹⁰ A Restatement is an attempt to reduce settled case law in an area of the law to basic principles, with comments and illustrations, by the best minds in the legal profession. Treatises, it can be argued, were an even earlier attempt to summarize and streamline access to the laws of the courts. In England they made their appearance in the late 1700s in correlation with improvements in case reporting.¹¹ In America, law evolved from Lord Blackstone's *Commentaries on the Laws of England* (1765-1770), to James Kent's *Commentaries on American Law* (1826-1830), to American treatises. "Nobody ever again wrote a book like Kent's *Commentaries*, because nobody needed one. Kent gave way to the treatises of Story and Greenleaf in his own day, and in the next century, to the mega treatises of Corbin, Powell, Scott, Wigmore, and Williston."¹² The law moved from all-inclusive national treatises to specialized topics. There was a tremendous need to simplify American case law with its many jurisdictions and specialties

¹⁰ Thomas H. Reynolds, B. P. Crum, Royal A. Gunnison & John Mason Ross, *Report of the Special Committee on Reports and Digests*, 2 A.B.A. J. 618 (1916); "Minutes of the Nineteenth Annual Meeting," *Association of American Law Schools* 48 at 117-119 (Dec. 29-31, 1921). There were many other calls for simplification of the case law over the years; for example, the American Bar Association Committee on Classification and Restatement of the Law was organized at least by 1919. *See* Urban A. Lavery, *Finding the Law: Legal Classification in America - 1880-1940*, 25 A.B.A. J. 383, 383 n. 2 (1939).

During the 1920s, the American Law Institute led this effort to simplify the case law. The American Law Institute was organized on February 23rd, 1923. The organization meeting was attended by the Chief Justice of the United States Supreme Court, as well as other representatives of the Supreme Court, representatives of the United States Circuit Courts of Appeals, the highest courts of a majority of the States, the Association of American Law Schools, the American and State Bar Associations, and the National Conference of Commissioners on Uniform State Laws. The meeting was held in response to an invitation issued by a voluntary committee, of which Mr. Elihu Root was chairman, on the vote a Permanent Organization for the Improvement of the Law, the Committee having prepared a report recommending the establishment of an American Law Institute. *See* Introduction to Restatement (First) of Contracts n. 2 (Am. L. Inst. 1932).

"The Committee on the Establishment of a Permanent Organization for the Improvement of the Law," led by Elihu Root, George Wickersham, and William Draper Lewis reported to the members of the legal profession that the "law is unnecessarily uncertain and complex," and as a result, there is a "general dissatisfaction with the administration of justice." *See The Story of ALI*, AMERICAN LAW INSTITUTE, <https://www.ali.org/about-ali/story-line/> (last visited Jun. 6, 2022).

¹¹ *See* Richard A. Danner, *Oh, the Treatise!*, 111 MICH. L. REV. 821, 825 (2013).

¹² John H. Langbein, *Chancellor Kent and the History of Legal Literature*, 93 COLUM. L.REV. 547, 597 (1993).

for the legal profession. By the 1920s, the idea of classifying and indexing (called “digesting”) case law by legal topics came to predominate.¹³

15. Neither the idea of digesting case law by legal topic nor the implementation of such indexing was created by West Publishing Company. Instead, the genesis of the Westlaw legal topic digesting system is the direct result of the work of Benjamin and Austin Abbott, both New York attorneys.¹⁴ They “spent the leisure of two years in careful analysis of the best treatises on every branch of law, and drawing up a concise and sharply defined outline of what each title in the Digest should contain.”¹⁵ What resulted from the Abbotts’ work was the *New York Digest*¹⁶ that classified and indexed cases by legal topic.

16. To be sure, the Abbotts also did not create the indexing system represented in the *New York Digest*. Others had already adopted or suggested this method as a means by which to organize case law.¹⁷ However, in their two years of analysis, it became clear to the Abbotts that the organizing principle for the cases had to be the text of the cases. The Abbotts concluded that those treatises that indexed cases by legal topic and principle had the most utility in terms of what they wished to accomplish, which was to provide a means for lawyers, courts, and academics to locate judicial opinions. Without an ability to locate cases, the common law, which is reliant on judicial opinions for its development, cannot be found, and therefore cannot be employed to influence and direct the development and course of the common law.

¹³ Lavery, *supra* note 10 at 383 n. 3. At the time of Lavery’s Article, there were an estimated 1.75 million cases, with 25,000 cases being added every year. It was estimated that the American Digest at that time contained seven million headnotes. *Id.*

¹⁴ See “Benjamin Vaughan Abbott,” 3 GREEN BAG 1, 1 (1891) (Benjamin Vaugh Abbott spent a year at Harvard Law School and finished his education in New York in 1852).

¹⁵ *Id.*

¹⁶ Benjamin Vaughan Abbott & Austin Abbott, *Digest of New York Statutes and Reports from the Earliest Period to the Year 1860* (1864).

¹⁷ See Section VI *infra*.

17. The Abbotts followed up the *New York Digest* with the *United States Digest* in 1867 (covering the period of organization of the government to 1867).¹⁸ This was followed by the *United States Digest* (the “New Series”) (covering the period from the organization of the United States government to 1884).¹⁹

18. In 1889, West Publishing Company acquired the *United States Digest*, “including the Abbotts’ scheme of classification and arrangement.”²⁰ One of those who had worked with the Abbotts and who continued to work with West (and indeed headed West’s classification system) was John Mallory.²¹

19. With John Mallory at the head, and the Abbotts’ classification system, West embarked on the effort of reclassifying all cases, in two digests produced at nearly the same time: *The Century Digest* (including cases from the “earliest times” to 1897)²² and *The Decennial Digest* (from 1897 to 1906).²³ *The Century Digest* and *Decennial Digest* constituted the *American Digest System*.

20. The following theorem evolved to help organize a “superstructure” of the classification system that would be used in West’s new *Century Edition* and *First Decennial Digest*, originally formulated as:

Law is the effort of society to protect PERSONS, including CORPORATIONS, in their rights and relations, to guard them in their PROPERTY, enforce their CONVEYANCES and CONTRACTS, and redress or punish their WRONGS and

¹⁸ Benjamin Vaughan Abbott & Austin Abbott, *Digest of the Reports of the United States Courts, and of the Acts of Congress, from the Organization of the Government to the Year* (1867-1880).

¹⁹ Benjamin Vaughan Abbott, *Abbott's National Digest: A Digest of the Reports of the United States Courts* (1886).

²⁰ Frederick C. Hicks, *Materials and Methods of Legal Research* at 203 (1923).

²¹ *Id.*

²² West Publishing Co., *Century Edition of the American Digest: A Complete Digest of All Reported American Cases from the Earliest Times to 1896* (1897) (“*Century Digest*”).

²³ West Publishing Co., *Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1897 to 1906* (1908) (“*First Decennial Digest*”).

CRIMES, by means of judicial REMEDIES, administered by the civil arm of GOVERNMENT.²⁴

21. This theorem of these ten capitalized concepts was further reduced to seven categories: PERSONS, PROPERTY, CONTRACTS, TORTS, CRIMES, REMEDIES and GOVERNMENT (*i.e.*, all existing judicial opinions would fall under one of these seven categories).²⁵ The seven categories were then split into 34 divisions, which were in turn divided into the 412 topics that constitute West's topic and key number system.²⁶

22. West undertook this effort for the same reasons the Abbotts created the *New York Digest*. Cases needed to be ordered using legal labels that a lawyer would employ, so that the judicial opinions could be found and utilized by lawyers, jurists, and legal scholars. John Mallory, who led West's efforts to create its index was quite explicit on this point.

The digester attempts to select for the alphabetically arranged titles such brief and appropriate designations, descriptive of the contents, *as will naturally occur to the lawyer* in search of the matters inserted thereunder; and the attempt to accomplish this difficult task is supplemented by the insertion of many titles containing simply cross-references to the titles preferred by the digester.²⁷

23. The utilitarianism that was Mallory's goal is captured in the following Mallory statement, "What is aimed at is not a classification satisfactory to an analytical jurist, but one useful to a

²⁴ West Publishing Co., *American Digest Classification Scheme: A Logical Analysis of the Law for the Use of Indexers and Digest Makers* at 1 (2nd ed. 1898) This theorem and in-depth explanation are repeated in West Publishing Co., *American Digest Classification Scheme: A Logical Analysis of the Law for the Use of Indexers and Digest Makers* at iii (3rd ed. 1901); West Publishing Co., *American Digest Main Heads and Subdivisions of Classification Scheme: A Logical Analysis of the Law for the Use of Indexers and Digest Makers* at iii (4th ed. 1904); and West Publishing Co., *American Digest Main Heads of Classification Scheme: A Logical System of the Law for the Use of Indexers and Digest Makers* at iii (5th ed. 1916).

²⁵ *Id.* Benjamin Vaughn Abbott came up with the theorem before 1880. See *Correspondence*, 22 ALB. L. J. 179, 179, (1880) (letter to the editor by Benjamin V. Abbott titled "Uniform Indexes."). "In formulating the American Digest Classification Scheme, the categories described [by Abbott] were taken as a basis." John A. Mallory, *The Theory of the American Digest Classification Scheme*, 1 AM. L. SCH. REV. 184, 188 (1904). See also John Doyle, *WESTLAW and the American Digest Classification Scheme*, 84 LAW. LIBR. J. 229-32 (1992).

²⁶ *Id.* at 5-11. See also Hicks, *supra* note 20. Today, the topic and key number system has been reduced to 363 topics. See fn. 45, *infra*.

²⁷ Mallory, *supra* note 25 at 186 (emphasis added).

practicing lawyer.”²⁸ The utilitarianism was, in fact, the *raison d’etre* for the adoption of the classification system, and the selling point for it to be adopted generally:

The selection of titles for heads, and the distribution among them of the contents of the digest, are controlled chiefly by considerations of practical convenience and usage, arising from the nature and use of digests as books of reference, in which lawyers look for precedents relating to specific subjects under heads to which they have become accustomed. Scientific or technical accuracy in the use of terms as such titles, and logical division and arrangement of the matter, are subordinated to these practical considerations; and any philosophical analysis of the law would be inapplicable to a digest; the contents of which are mere fragments of the subject-matter, arranged under heads in alphabetical order.²⁹

By comparison, any classification system that was based on a “creative” approach would necessarily not be utilitarian and would have minimal, if any, efficacy.

IV. THE INFLUENCE OF DIGEST PREDATING WEST’S *THE AMERICAN DIGEST*

24. West Publishing in its own publications acknowledged that its system of indexing and digesting was a widely used standard system.³⁰ The roots of the West indexing system are found by comparing prior digests and treatises to the West indexing system, even as it exists today.

25. Table No. 1 at Exhibit 3 measures the number of first-order subtopics for *contracts* and second-order subtopics for *contracts*, *performance* contained in each of the early digests and compared to West’s topic and key number system today. When comparing the number of first-order sub topics and second-order sub topics, the structure of the modern digest as expressed in the Westlaw topic and key number system was laid down by the early Abbotts’ Digests, at least as to the first-order subtopic under *contracts*.³¹ Furthermore, taking sample second-order topics from *performance* under *contracts*, I find that all 35 of those second-order topics trace their origins to the earliest digests.³²

²⁸ *Id.* at 185 (quoting *Wambaugh’s Study of Cases*, §§ 115, 118).

²⁹ *American Digest Main Heads and Subdivisions*, *supra* note 24.

³⁰ *Id.*

³¹ *See* Exhibit 3.

³² *Id.*

26. But the Abbotts' system is not the only place to find the West indexing system. As noted, the Abbotts did not create their indexing system *tabula rasa*. Casebooks and digests from the Abbotts era reflect similarities in concept and organization.

27. West's contribution was to extend the existing indexing system to a wider number of cases, which proved a useful addition to locating legal opinions.

V. THE ADOPTION OF THE INDEXING SYSTEM BY OTHER DIGESTS

28. What West did was take a pre-existing system and expand it over a broader reach of case law. Its contribution was to encompass "all" United States judicial opinions. Indeed, that was one of the central keys to West's success. Prior to its acquisition of the Abbott indexing system, West collected cases and sold in reporters a greater volume than any of its competitors, and therefore the index it acquired from the Abbotts naturally provided a means of application to a greater number of judicial opinions. West also had a comparative advantage over other digest producers (such as those that only provided an index) as West already had collected a large body of cases for publication in the National Reporter System.³³ West could market digests at what would be a loss for other digest companies who were only producing digests and not case reporters.³⁴

29. Following the publication of the *American Digest*, West systematically marketed its index to lawyers, the ABA, and other digest makers and indexers. West's stated goal was to obtain universal adoption of what West now calls its proprietary classification system. To that end, West marketed its Digest to the ABA in 1897. The next year, at its next annual meeting, the ABA publicly endorsed the system and encouraged all indexers and digesters to use this same system, emphasizing the utilitarianism of the system.³⁵

³³ William W. Marvin, *West Publishing Company: Origins, Growth, Leadership* at 69 (1969).

³⁴ *Id.*

³⁵ *Id.*

30. And that is just what happened. In West’s own words, “innumerable smaller indexes and digests” used West’s classification system.³⁶ Indeed, West’s own manual explaining its system is subtitled, “For the Use of Indexers and Digest Makers,”³⁷ and encourages others to take up its system. According to West, this would promote uniformity for American attorneys across the legal research process. Indeed, Bancroft-Whitney used the West classification system in its *1920-1923 California Digest Supplement*.

We have had over a hundred requests for it, and it has been formally adopted by the Lawyers' Co-operative Publishing Co. and by the Bancroft-Whitney Co. for use in the digests to be hereafter published by them. It has been followed, with credit duly given, in a number of late State Digests, and has been taken as a basis for the indexes of the current State Reports in a number of states. This wide-spread use will tend rapidly to establish this system as the standard in this country-a position which its intrinsic excellence well deserves.³⁸

31. For example, for *contracts* the organization and concepts of Bancroft-Whitney’s supplement are identical to *West’s First Decennial Digest*.³⁹

³⁶ *Id.* .

³⁷ *American Digest, Main Heads of Classification*, *supra* note 24.

³⁸ *Id.*

³⁹ Comparison of “Contracts” from Bancroft, *California Digest of Official Report (Series 3 & 4)* (revised in 1997) to *First Decennial Digest*, *supra* note 23.

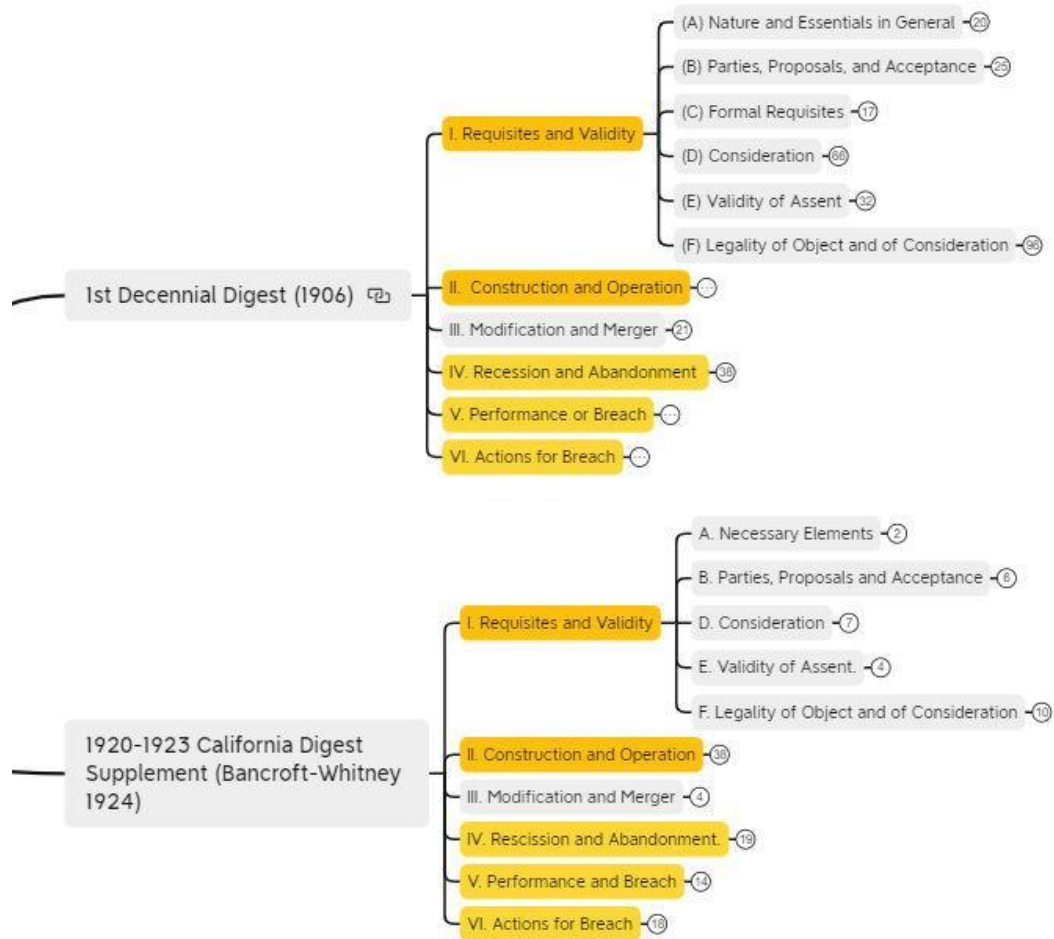


Figure No. 1: Comparison of Contracts Section of the *First Decennial Digest* and the *Bancroft-Whitney California Digest Supplement*

32. In fact, West boasted of Bancroft-Whitney's utilization of the West classification system, which Bancroft-Whitney adopted by at least 1906.⁴⁰ It was still in use when West Publishing Group bought Bancroft-Whitney, in 1996.⁴¹

33. Bancroft-Whitney did not stand alone. West had competitors, and some of them persisted for nearly a century. They too adopted the West index system⁴² as did innumerable smaller digests

⁴⁰ See *First Decennial Digest*, *supra* note 23; see also Figure 1.

⁴¹ See *Chodos v. West Publishing Co.*, 292 F.3d 992, 1994 (9th Cir. 2002).

⁴² See Michael O. Eshleman, A History of the Digests, 110 LAW LIBR. J. 235, 245, comparing the *General Digest*, published by the Lawyers' Co-operative Publishing Company, to the *United States Digest*.

and indexes, and various states such as New Jersey, Massachusetts, Missouri, Kentucky, Washington, California, Virginia and West Virginia, and Illinois.⁴³ Thus, West freely allowed competitors to use the indexing system. In fact, in the introduction to the Fourth Edition of the *American Digest*, West specifically notes that other publishers and jurisdictions have “generally adopted” the West indexing system.⁴⁴

VI. THE EVOLUTION OF THE WEST INDEX SYSTEM

34. The West index (or categorization) system, now known as the topic and key number system, had 412 top-level topics at its comprehensive digest level inception with the *Century Digest*. The fifty volumes that comprise the *Century Digest* were published between 1897 to 1904. As of the date of the report, there are now only 363 top-level topics.⁴⁵ Over seventy-six percent (76%) of the 412 top-level topics of the *Century Digest* are either exactly the same as or only slightly renamed from the 363 in use today.⁴⁶

⁴³ *First Decennial Digest*, *supra* note 23 at vii.

⁴⁴ *Id.*

⁴⁵ See Table 2 at Exhibit 4 (showing evolution of topics from 1892 to present and identifying when new top level topic were added, discontinued, renamed, or revised); Although Westlaw currently lists top-level topics 1-414 on its website, not every number is accounted for (*e.g.*, there is no top-level topic number 3, 7, 19, to name a few). By counting the number of key numbers listed, I determined that there are currently 363 topics used by Westlaw.

⁴⁶ *Id.*; see also Figure 2.

412 Top Level Topics of the *Century Digest* (1897-1904)

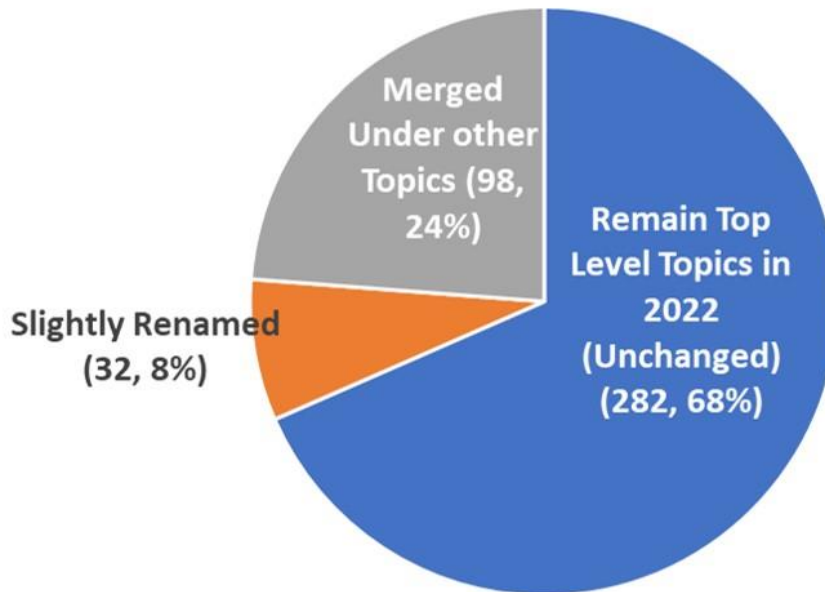


Figure No. 2: Comparison of Topics from the *Century Digest* and Topics from Present Day

35. The overwhelming majority of top-level topics used in the *Century Digest*, are still in use today without having changed a single word or letter. Specifically, 282 or 68% (two-thirds) remain unchanged.⁴⁷ This includes common doctrinal topics taught as law school courses (Contracts, Criminal Law, Property, and Torts), fact specific topics (Bridges, Fish, Pilots, and Sunday), as well as more obscure legal doctrines and procedures (Audita Querela, Detinue, Lis Pendens, and Supersedeas).⁴⁸

36. Furthermore, thirty-two (32) of the original *Centennial Digest* top-level topics, or another 8% of the original 412, are still in existence today and have been only slightly renamed because the law has changed as to how these concepts are referenced.⁴⁹ For instance: Master and Servant

⁴⁷ See Table 3 of Exhibit 5 (showing *Century Digest* Topics and their present-day equivalent).

⁴⁸ *Id.*

⁴⁹ Table 2 at Exhibit 4, *supra* note 45.

became Principle and Agent; War changed to War and National Defense and then again to War and National Emergency; and Intoxicating Liquors became Alcoholic Beverages.⁵⁰ Additionally, ninety-eight (98) or 24% of the 412 top-level topics of the *Century Digest* were subsequently merged into other top-level topics. For instance, Abduction, Affray, Blasphemy, Common Scold, Dueling, Embracery, Fornication, Miscegenation, Piracy, and Prize Fighting all were subordinated under Criminal Law.⁵¹

37. There are a few incidences in which top-level digest topics have been added because Congress or the States adopted new statutory regimes. In other words, new laws created rights, criminal penalties, and/or causes of action that did not exist previously. Examples include Racketeer Influenced and Corrupt Organizations (RICO), Unemployment Compensation, and Workmen's Compensation.⁵²

38. Like with the original topics, the indexing of these new legal regimes followed the same utilitarian approach because one cannot veer from established legal concepts when indexing the cases. Classifying cases related to RICO, unemployment compensation, or workmen's compensation without utilizing the standard words that reflect these concepts would render the exercise futile.

VII. THE EVOLUTION OF THE SUB-TOPICS

39. According to West, below the 363 top-level topics currently in use, there are over 100,000 sub-topics.⁵³ Over time, the sub-topics have expanded. Daniel Dabney, West's chief taxonomist, explains how the system expands in a 2013 video: when the increase in cases on a topic start

⁵⁰ *Id.*

⁵¹ Table 3 at Exhibit 5, *supra* note 47.

⁵² Table 2 at Exhibit 4, *supra* note 45.

⁵³ *West's Analysis of American Law 2021 Edition: Guide to the American Digest System* (2021).

making the system unwieldy, new lines, or even an amalgamation of several areas into a new topic, are added.⁵⁴ The process is utilitarian, and driven by the changes in the cases themselves.

40. To understand this evolution,, one can look at one West topic, “99 Copyright and Intellectual Property.”⁵⁵

41. The phrase, “In general,” occurs the most frequently as a key number as it is the mechanism to allow non-postable lines (not capable of receiving headnote treatment) to become postable (capable of receiving headnote treatment).⁵⁶ For instance, the topic string 99 Copyrights and Intellectual Property > XVI. Actions and Judicial Proceedings k931-k1080 > (C) Evidence k991-k1060 > 3 Weight and sufficiency k1031-k1060, does not become postable and does not receive headnote treatment until the next level of the hierarchy is added: 99 Copyrights and Intellectual Property > XVI. Actions and Judicial Proceedings k931-k1080 > (C) Evidence k991-k1060 > 3 Weight and sufficiency k1031-k1060 > k1031 In general.

42. When this occurs, the topic string is almost always followed with greater hierarchical depth such as: 99 Copyrights and Intellectual Property > XVI. Actions and Judicial Proceedings k931-k1080 > (C) Evidence k991-k1060 > 3 Weight and sufficiency k1031-k1060 > k1032 Validity, ownership, and duration of rights.

43. The topic “Copyrights” has expanded from 85 lines (lines refer to the number of lines of indexing and each line is counted even if it is not original or unique) at its inception in 1899 to 773 lines at present. This is an increase by 9 times. However, this increase in specificity is tempered

⁵⁴ Video: *Dan Dabney on Reclassifying Headnotes in the Key Number System*, THOMSON REUTERS \ LEGAL CURRENT, <https://www.legalcurrent.com/dan-dabney-on-reclassifying-headnotes-in-the-key-number-system/> (last visited Mar. 24, 2022).

⁵⁵ The Topic Name is misleading as the other commonly included intellectual property topics, Patents and Trademarks, are each their own top-level West topics.

⁵⁶ Daniel Dabney, former chief taxonomist at West, is on the record stating that there are 18,754 “structural lines in the hierarchy” that are not postable. Daniel P. Dabney, *The Universe of Thinkable Thoughts: Literary Warrant and West’s Key Number System*, 99 Law Libr. J 229, 236 ¶ 33 (In 2007, the key number system had “109,183 lines, of which 90,429 are postable, and the remaining 18,754 are structural lines in the hierarchy.”). This means that there must be a similar amount of “In general” key numbers embedded within the current 363 top-level topics of the West topic and key number system.

by an interesting phenomenon of reuse, repetition, and interplay between doctrinal, procedural, and fact-based topics. Often the exact same concepts (whether factual, doctrinal, or procedural) are reused in slightly different contexts. For instance, we see the same, eleven specific topical instantiations applied to numerous different contexts within the topic, Copyrights and Intellectual Property:

- In general
- Books and other literary works
- Musical works and accompanying words
- Dramatic works and accompanying music
- Choreographic works and pantomimes
- Pictorial, graphic, and sculptural works
- Clothes, fabrics, and jewelry; fashion designs
- Motion pictures and other audiovisual works
- Sound recordings and phonorecords
- Architectural works
- Computer-related works

44. These eleven topics are applied to and repeated in different contexts such as:

99 Copyrights and Intellectual Property > II. Protected Subject Matter > (B) Copyrightable Subject Matter > 2 Particular Subject Matter as Copyrightable (k251-k310)

- In general (k251)
- Books and other literary works (k252)
- Musical works and accompanying words (k256)
- Dramatic works and accompanying music (k257)
- Choreographic works and pantomimes (k260)
- Pictorial, graphic, and sculptural works (k261)
- Clothes, fabrics, and jewelry; fashion designs (k269)
- Motion pictures and other audiovisual works (k270)
- Sound recordings and phonorecords (k275)
- Architectural works (k278)
- Computer-related works (k296)

99 Copyrights and Intellectual Property > VII. Violation of Rights > (B) Copyright Infringement > 2 Infringement of Particular Works (k571-k610)

- In general (k571)
- Books and other literary works (k572)
- Musical works and accompanying words (k578)
- Dramatic works and accompanying music (k584)
- Choreographic works and pantomimes (k585)
- Pictorial, graphic, and sculptural works (k586)

- Clothes, fabrics, and jewelry; fashion designs (k592)
- Motion pictures and other audiovisual works (k593)
- Sound recordings and phonorecords (k599)
- Architectural works (k600)
- Computer-related works (k601)

99 Copyrights and Intellectual Property > VIII. Defenses and Permitted Uses > (C) Fair Use (k741-k780)

- In general (k755)
- Books and other literary works (k756)
- Musical works and accompanying words (k757)
- Dramatic works and accompanying music (k758)
- Choreographic works and pantomimes (k759)
- Pictorial, graphic, and sculptural works (k760)
- Clothes, fabrics, and jewelry; fashion designs (k761)
- Motion pictures and other audiovisual works (k762)
- Sound recordings and phonorecords (k763)
- Architectural works (k764)
- Computer-related works (k765)

99 Copyrights and Intellectual Property > XVI. Actions and Judicial Proceedings > (C) Evidence > 3 Weight & Sufficiency (k1031-k1060) > 1042 Violations of Rights > 1044 – Copyright Infringement > – (3) Infringement of particular works

- In general (k1044(–4))
- Books and other literary works (k1044(–5))
- Musical works and accompanying words (k1044(–6))
- Dramatic works and accompanying music (k1044(–7))
- Choreographic works and pantomimes (k1044(–8))
- Pictorial, graphic, and sculptural works (k1044(–9))
- Clothes, fabrics, and jewelry; fashion designs (k1044(–10))
- Motion pictures and other audiovisual works (k1044(–11))
- Sound recordings and phonorecords ((k1044(–12))
- Architectural works (k1044(–13))
- Computer-related works ((k1044(–14))

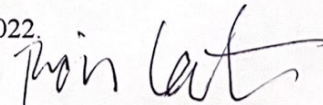
45. While currently, the topic and key number system has about 90,500 of lines capable of receiving headnote assignments, much of this is repetitive. For instance, a procedural/evidentiary

topic such as “Presumptions, inferences, and burden of proof” may be found repeated in numerous different contexts:

- 17 Adoption > V. Evidence, k321-k340 > k322 **Presumptions, inferences, and burden of proof**
- 78 Civil Rights > III. Federal Remedies in General, k1301-k1500 > k1400 **Presumptions, inferences, and burdens of proof.**
- 78 Civil Rights > IV. Remedies Under Federal Employment Discrimination Statutes, k1501-k1700 > k1534 **Presumptions, inferences, and burdens of proof.**
- 92 Constitutional Law > XXVII. Due Process, k3840-k4849 > (H) Criminal Law, k4500-k4849 > 5. Evidence and Witnesses, k4650-k4699 > k4653 **Presumptions, inferences, and burden of proof**
- 110 Criminal Law > XVII. Evidence, k304-k572 > (B) **Presumptions and Inferences**, k305-k325; (C) **Burden of Proof**, k326-k336.
- 343 Sales > XI Actions, k2401-k2900 > (C) **Presumptions, Inferences, and Burden of Proof**, k2601-k2660.

46. The evolution of the sub-topics, like the evolution and expansion of the top-level topics is driven by utilitarian functionality. As the number of cases within a sub-topic increase, there is a need to expand the number of sub-topics to prevent the indexing system from becoming too unwieldy. Important to this expansion is that the expansion is done in a logical way and utilitarian in nature. In fact, because utilitarianism is necessary, any attempt to expand the number of sub-topics in a “creative” way would negate the purpose of the indexing system—using the terminology used by the cases so that users of the index can find the relevant cases.

Executed at Lincoln, Nebraska, on this 1st day of August, 2022.



Professor Richard A. Leiter

EXHIBIT 1

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EXPERIENCE

SCHMID LAW LIBRARY, UNIVERSITY OF NEBRASKA – LINCOLN COLLEGE OF LAW

Lincoln, Nebraska

Director of the Law Library and Professor of Law (2000 -)

Tenured. Responsible for the overall management and development of the law library faculty (4) and staff (8), programs, resources, budget and planning. Teach first year and advanced legal research. Law Library has collection of nearly 360,000 and budget of about \$1.3 million. Responsible for programming and design of 20,000 sq ft law library addition and renovation, 2000. Second renovation presently underway that involves two of three floors.

– *Fall 2011, Visiting Academic Research Fellow, Harvard Law School Library, Library Innovation Lab. On sabbatical leave from UNL.*

ALLEN MERCER DANIEL LAW LIBRARY, HOWARD UNIVERSITY SCHOOL OF LAW

Washington, District of Columbia

Associate Dean for Information Systems Technology

Director of the Law Library and Professor of Law (1994 - 2000; Assoc. Dean 1998 - 2000)

Promoted with tenure in 1999. Responsible for the overall management and development of law school computing resources, the law library professional (7) and classified staff (11), teaching advanced legal research, and long range planning. Law Library has a collection of approximately 300,000 and budget of \$1.9M. Programmed and designed 70,000 sq ft law library facility.

REGENT UNIVERSITY SCHOOL OF LAW, LAW LIBRARY

Virginia Beach, Virginia

Director of the Law Library and Associate Professor of Law (1991-1994)

Responsible for the overall management and development of the law library faculty (5) and staff (6.5), programs, budget and long range planning and teaching first-year and advanced legal research. Law Library has a collection of 280,000 volumes. Programmed, designed and supervised construction of 35,000 sq ft law library facility. Supervised move into new facility.

LITTLER, MENDELSON, FASTIFF & TICHY

San Francisco, California

Head Librarian (1988-91)

Responsible for all aspects of library service for law firm of 190 attorneys in 11 offices around the country. Administered budget of over \$700,000 per year. Planned and implemented automated library systems, planned training program for new attorneys, summer associates, paralegals, and secretaries. Member, marketing committee, library committee. Responsible for professional staff of two and four FTE library clerks. Programmed and designed new law library facility.

UNIVERSITY OF NEBRASKA COLLEGE OF LAW LIBRARY

Lincoln, Nebraska

Public Services Librarian (1986-88)

Responsible for all aspects of public service, including redesign of circulation system, inter-library loan program, reserve room policy, exhibit program, reference and computer lab. Wrote library user's manual. Responsible for two-and-a-half full time professionals and paraprofessionals and 12 student desk attendants.

UNIVERSITY OF TEXAS, TARLTON LAW LIBRARY

Austin, Texas

Head of Reference (1986) Reference Librarian (1984-86)

Responsible for supervision of the reference staff, including scheduling and professional continuing education. Also responsible for maintaining bulletin boards, information counters, reference policies and CALR training for a faculty of 100 and a first year class of 500. Faculty advisor, Phi Alpha Delta.

HOPKINS, MITCHELL & CARLEY

San Jose, California

Managing Librarian (1983-84)

Responsible for library: organizing, revitalizing and cataloging library collection. Planned new acquisition strategy, budget and layout of library.

IRELL & MANELLA

Los Angeles, California

Legal Research Aide (1977-78)

General library research and reference; extensive out-of-office research and contact with a wide variety of libraries and administrative agencies in the Los Angeles area.

THE HONORABLE DAVID W. WILLIAMS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Los Angeles, California

Law Clerk-Crier (Externship) (1980)

Drafted memoranda analyzing and making recommendations for rulings on motions; speech writing; bench memo for Ninth Circuit Court of Appeals.

UNIVERSITAS ANDALAS (Professional University) & IKIP (Teacher Training College)

Padang, West Sumatra, Indonesia

English Instructor (1976-77)

Planned and implemented English courses for college students and faculty. This was a volunteer position under auspices of *Volunteers in Asia (VIA)*, Stanford, CA.

EDUCATION

Library Science

UNIVERSITY OF TEXAS

Austin, Texas - M.L.I.S., 1986

Law School

SOUTHWESTERN UNIVERSITY SCHOOL OF LAW

Los Angeles, California - J.D., 1981

- * Law Review: Editor 1980-81; member 1979-80
- * Dean's scholarship 1980-81
- * Computer Law Journal: Editor 1978
- * The Commentator (school newspaper): Editor 1980-81; staff writer 1979-80
- * Phi Alpha Delta: Vice-Justice 1980-81; member 1978-80
- * The Advocate (yearbook): Editor 1981
- * Graduation Committee 1980-81
- * Certificate of Distinguished Service 1981

Undergraduate

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

Santa Cruz, California - B.A., 1976

Double major, Anthropology and Religious Studies.

- * Honors: Graduated with Honors in Religious Studies and received Honors on thesis in Anthropology

SOUTHERN OREGON COLLEGE

Ashland, Oregon, 1971-72

- * Honors: Dean's List

Awards and Honors:

Frederick Charles Hicks Award, Recipient, 2020. Awarded by the Academic Law Libraries Section of the American Association of Law Libraries for "Outstanding Contributions to Academic Law Librarianship."

Jospeh L. Andrews Bibliographical Award, Recipient, 2003. For National Survey of State Laws, Sixth Edition. Awarded by American Association of Law Libraries. Awarded to recognize significant contributions to legal bibliographical literature.

Kenneth L. Hirsh Award for Distinguished Service, Recipient, 2010. Awarded by American Association of Law Libraries for distinguished service to the library community by furthering awareness of computing services in law libraries.

Depository Library Council, Appointment 2021. Three year appointment. Appointed to the Working Group on the Feasibility of an All-Digital Depository Library Program.

PUBLICATIONS

Books

National Survey of State Laws, Ninth Edition *in process* (Buffalo: Hein 2022)

National Survey of State Laws, Eighth Edition (Buffalo: Hein 2019)

Seventh Edition (Buffalo: Hein 2015)

*Winner 2003 Joseph L Andrews Bibliographical Award (AALL)

Sixth Edition, Editor (Detroit: The Gale Group, 2008)

Fifth Edition, Editor (Detroit: Thomson-Gale, Inc. 2005)

Fourth Edition, Editor (Detroit: Thomson-Gale, Inc. 2003)

Third Edition, Editor (Detroit: The Gale Group, Inc., 1999)

Second Edition, Editor (Detroit: Gale, Inc., 1997)

First Edition, Editor (Detroit: Gale Research, Inc., 1993)

Landmark Supreme Court Cases, Third Edition (Facts on File 2017) *eBook*

Landmark Supreme Court Cases, Second Edition, with Roy Mersky (Facts on File 2011).

The Spirit of Law Librarianship, Second Edition. Co-Editor with Prof. Roy Mersky (Chicago: Alert Publications, Inc., 2004).

Concordance of Federal Legislation, with A. White (Buffalo, NY: Wm. S. Hein & Co., Inc. 1998).

Introduction: (Booklet) The Principles of Natural Law and The Principles of Politic Law by J.J. Burlamaqui, 1748, 1752. Reprint by Legal Classics, Gryphon Editions, 1994.

The Spirit of Law Librarianship: A Reader, Co-Editor with Prof. Roy Mersky (Littleton, CO: Fred B. Rothman & Co., 1991).

Steering Committee Member, Section Editor, and Contributor, Yellow Pads to Computers, First and Second Editions (Chicago: American Bar Association, 1987, 1991).

Faculty Writings: The University of Texas School of Law, No. 31, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1986).

New Frontiers in Forensic and Demonstrative Evidence, No. 24, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1985).

Articles/Contributions

“Law Librarians’ Roles in Modern Law Libraries,” chapter in Academic Law Library Director Perspectives, edited by Michelle M. Wu (Buffalo, NY: Wm. S. Hein & Co., Inc. 2015)

“Tools of Our Trade,” AALL Spectrum Sept/Oct 37 (2013)

“Much Ado about Authentication,” 23 Trends in Law Library Management and Technology 2 (2013)

“Publication in the Digital Age,” 31:3 The Catchline 10 (Nov-Dec 2012)

"Who Gets to be the Expert? Legal Research Skills Certification in Legal Education," 28 Legal Reference Services Quarterly 271 (2009)

"Reflections on Ranganathan's Five Laws of Library Science," 95:3 Law Library Journal 411 (Summer 2003).

"Reflections on the Art of Mentoring," 14:3 Trends in Law Library Management and Technology (2004).

"The Use of Law Reviews in Modern Legal Research: The Computer Didn't Make Me Do It!" 90:1 Law Library Journal 59 (Winter 1998).

"Finally, Handheld Computers Have Come of Age," National Law Journal, page C4, July 1, 1996.

"PDA's: Not Just Toys Any More," Legal Assistant Today, July 1996.

"PDA: The Promise of Technology," Legal Information Alert, April/May 1996.

"Assault of the Citadel: Romancing the Crown Jewels of West Publishing," 14:1 Legal Information Alert, page 1, January 1995.

"Do You Need a Library?" Chapter 1, Planning The Small Law Office Library, Ed. Catherine Pennington. (Chicago: American Bar Association. 1994.

"FREESTYLE by Lexis: A Natural Development." 13:2 Legal Information Alert 1 (February 1994).

"WIN: 'It's the Natural Way'." 11: 6 Legal Information Alert 1 (November/December 1992).

Product Review: "Can Your Firm WIN With New Search Approach?" Vol. x, No. 9 Leader's Legal Tech Newsletter page 1 (December 1992).

"Navigating the Haystack: Legal Research Tips You Can Use," 8:6 Legal Assistant Today 52 (July/August 1991).

"What's New In On-Line Legal Databases," Law Office Computing 107 (Summer 1991).

"The Myth and Magic of Computer-Assisted Legal Research," 11:2 California Lawyer 57 (1991).

"The Collier Bankruptcy Law Library on CD-ROM" (with Leslie Ann Forrester Sherren), 10: 6 Legal Information Alert 1 (June 1991).

"Research Instruction for Partners, Associates & Summer Associates," Paper presented at Conference on Teaching Legal Research in Private Law Firm libraries sponsored by Mead Data Central, held April 1990 in Washington, D.C. Papers presented at the conference were compiled and published in Proceedings of the Conference on Teaching Legal Research in Private Law Firm Libraries (Littleton, CO: Fred B. Rothman & Co., 1991).

"The Developments in the Practice of Law and Their Influence on the Enterprise of Law Publishing," essay for the Symposium of Law Publishers, special issue, Legal Reference Services

Quarterly, (29 Numbers 3/4 1991). Also published as a monograph by Howorth Press, Symposium of Law Publishers, Thomas A. Woxland, Editor. (NY: Haworth Press, Inc., 1991).

"The Future of CALR in Law Firms," 2:2 Trends in Law Library Management and Technology 1 (1988).

"A History of Legal Periodical Indexing," 7 Legal Reference Services Quarterly 35 (1987).

Note, "The 'New' Supervisory Power and Judicial Impotency: The Loophole in the Fourth Amendment," 12 Sw. U.L. Rev. 449 (1981).

Miscellaneous

Depository Library Council, member. Three year term, 2021-2024. Advisory committee of the Government Publishing Office.

Task Force to Consider an All Digital GPO, 2022

FastCase 50 honoree, 2014. For recognition as a library innovator.

Leader, Law Library Tour of China. People to People. Fall, 2008.

Podcast, "Law Librarian Conversations." Broadcasts on the 3d Friday of the month. Available for downloads on iTunes and lawlibcon.classcater.net. Average numbers of listeners is about 550. Ran for 10 years.

Consultant, Liberty University School of Law, Lynchburg, VA. Hired to plan law library for planned law school. Responsible for strategic planning, hiring of initial staff, selecting collection, negotiating with vendors and planning layout of the library, 2003 – present.

Consultant, Handong University, Korea. Hired to help plan and build an American Law Library for a planned law school, 2001-2002.

Columnist, "Legal Research Tips," bi-monthly column for Legal Assistant Today, 1991-1999.

Columnist, "Database News," monthly column for Legal Information Alert, 1993- present.

Columnist, "Law Library Hi-Tech," monthly column for the Monthly Newsletter of the American Association of Law Libraries 1990-1993 (term expired).

Interview, Legal Line (Column): "What's Wrong with CD-ROM?" Cary Griffith, Information Today, page 16, July/August 1992. (My views on CD-ROM were the topic of this column for which I was interviewed extensively by Mr. Griffith.)

Profile, "Library is Guided by Three Principles," appeared in California Law Business (supplement to The Daily Journal), June 11, 1990.

Various editorials, Automatome, The Newsletter of the Automation and Scientific Development Special Interest Section of AALL, 1986-1989.

Moderator and Panelist. "Law Firms and Legal Research." a roundtable discussion on the legal research skills training of law students and new associates. A transcript was published in a special Legal Research Supplement to the January 26, 1990 issue of The Recorder, a San Francisco legal newspaper and host of the panel discussion.

Various book reviews, American Reference Books Annual, 1986-present,

Various book reviews, Legal Information Alert, 1982- present.

MEMBERSHIPS

American Bar Association (ABA), 1984 - present; American Association of Law Libraries (AALL), 1982 - present; Association of American Law Schools (AALS) 1991 - present; Mid America Association of Law Libraries (MAALL) 2000 - present; American Library Association (ALA), 1984 - present; Nebraska Library Association (NLA), 2015 - present; SCRIBES, American Society of Writers on Legal Subjects, 1994 - present; Big Ten Law Library Alliance, steering committee (BTLLA) 2013 - .

Committees:

*** AALL -**

Automation and Scientific Development (now Computer Services) Special Interest Section:
Newsletter (Automatome) Editor, 1986-89; Chair, 1989-90;
Member, 1985-

Awards Committee, member, 2007- 2010, 2020-2023.

Government Relations Committee, 2014-2017; Chair, 2016

Indexing Legal Periodicals Advisory Committee, member, 1989-92 (three-year term;
Chair, 1990, 1991

Law Library Journal/Spectrum Editorial Advisory Committee, 2004-2007 (three-year term;
Chair, 2005, 2006)

Publications Committee, member, 1987;

Research Committee, 1997-1999 (three-year term), Chair 1998-1999.

Recruitment Committee, member, 1994-1997 (three-year term)

Special Committee to Promote the Development of Resources for the Legal Information Community. 1994-1995. (Committee finished its charge.)

*** AALS**

Chair, Law Libraries and Legal Information Section, 2021

*** MAALL-**

President, 2011.

Member Board of Directors, Mid America Law Library Consortium (MALLCO), 2000-present.

*** ABA -**

Library Committee, Economics of Law Practice Section (ABA): Vice Chair, 1986-88;
Member, 1986 - present;

Videotape Equipment Utilization Committee, Economics of Law Practice Section (ABA), Chair,
1988-90.

Section on Legal Education and Admission to the Bar, various site inspection teams, see "Service Activities" section, below.

*** NLA**

Intellectual Freedom Roundtable, 2016 - .

PROFESSIONAL ACTIVITIES

Presenter, "Taking the Fright out of Copyright," Annual meeting, Nebraska Library Association Annual Meeting, 2017

"Getting Real Law: Navigating the Internet for Reliable Sources of Law and Legal Materials," Annual meeting, Nebraska Library Association Annual Meeting, 2017

Various presentations at Doane College, Crete and Nebraska Wesleyan University to faculty on topic of copyright and classroom materials.

Presenter, "The Art of Social Networking in Law Libraries," Annual Conference of Ninth Circuit Branch Librarians, May 2010, Tucson, AZ.

Leader, "Legal Research and Legal Science Professional Delegation to China." Lead People to People Citizen Ambassador delegation to Beijing and China. The delegation visited four universities with law schools, two law publishing companies and the Shanghai Public Library in a span of eleven days. October 24 – November 3, 2008.

Presenter, "ABA Questionnaire: New and Improved or...." Panelist, responder.
"Budgeting in a Recession; Or, Getting Blood for Turnips." Speaker.

Presenter, "Teaching the Teachers," Fall 2007, University of Texas School of Law. Panelist on Teaching Legal Research.

Presenter, "Where's My Jet Pack?" program at MAALL Annual Meeting, Fall 2005, Grand Forks, ND.

Co-creator and presenter, Legal Research for Non Law Librarians. Half-day seminars presented to general academic, public, school and prison librarians. Some programs have been offered under the auspices of the Nebraska Library commission, some have been offered directly to interested groups. Program was presented four times in its first year, including in remote locations around the state.

Presenter, Law College's Estate and Gift Trust CLE program, 2001, 2002, 2003.

Faculty, Law Librarian's Society of the District of Columbia, Research Instruction Program, 1995, 1996, 1998.

Presenter, "Issues Confronting the Modern American Law School Library," Legal Information Seminar (for Russian legal educators), International Law Institute, October 7-25, 1996, Howard University School of Law.

Coordinator, "Managing the 'New' CALR in Law Libraries," AALL Annual Meeting Program, Indianapolis, IN, 1996.

Faculty, "Legal Looseleaf Services," LLSDC, Education Committee's Legal Research Institute, 1995, 1996.

Presenter, "Online Live! Natural Language," Online '94/CD-ROM Conference and Exposition, San Francisco, CA, October 1994.

Panelist, "Religious Educational Institutions: Law Library Hiring Practices in a Changing Environment," AALL Annual Meeting, Seattle, WA, 1994.

Westlaw Advisory Board; member, 1990-1993; 2008–present (three-year term)

Advisory Board, Oceana Publications, Inc., 1993-2000.

Participant (by invitation only), "The McCrate Report: Where Do We Go From Here?" Sponsored by the American Bar Association, University of Minnesota Law School, and West Publishing Company. September 30 - October 2, 1993.

Participant, CALI/LEAP, Conference for Law School Computing Professionals, Chicago-Kent College of Law, Chicago, IL, June 1993.

Participant (by invitation only), "Canadian Law & Legal Literature," Biennial conference sponsored by Duke University Law Library and the Duke University Canadian Studies Center.

"Access to Legal Information in a Multilingual Culture," March 1992;

"Canada and the World," March 1994.

Faculty, "Hot Topics in Employment Law," Managing the Private Law Library 1991: Management Challenges, New Technology, and Planning for the 1990s, Practicing Law Institute, San Francisco, CA 1991.

Faculty Member, "Survey of Spreadsheets and Other Computer Applications in Financial Planning," AALL Pre-conference: Institute on Financial Management of Law Libraries," St. Paul, MN, 1990.

Coordinator and Moderator, "The Modern Law School Computer Lab: The Evolution of the Typing Room in the Age of Technology," AALL Annual Meeting, Minneapolis, MN 1990.

Faculty Member, "Teaching Legal Research to Legal Secretaries," AALL Pre-conference "Institute on Teaching Legal Research," Sacramento, CA, 1989.

Co-Director and Faculty Member, AALL Pre-conference "Workshop on the Fundamentals of Microcomputers," Reno, Nevada, 1989.

Coordinator and Moderator, "Micros to Mainframes: Annual Software, Hardware, and Applications Update," 1987, 1988, 1989.

Speaker, Panelist, "Organizing Your Law Library," ABA Annual Meeting, Toronto, 1988.

COMMUNITY/SERVICE ACTIVITIES

Member, Site Inspection Team, ABA Accreditation Committee:
University of Arkansas School of Law, 2000, 2013
University of Montana School of Law, 2001, 2017
University of Indiana, Indianapolis, School of Law, 2003
New York Law School, NYC, 2004
Michigan State University, School of Law, Spring 2007
West Virginia University, School of Law, Winter 2009
Thomas Cooley Law School, Spring 2011
University of Oklahoma, Fall 2016
University of Arizona, 2019

Member, University of Nebraska Faculty Senate Library Committee, 2000-present.

Senator, University of Nebraska Faculty Senate, 2002–present (three-year term); reelected, 2005; Member Executive Committee, 2016 - ;

Member, Faculty Senate Information Technology and Services Committee, 2012 - ; Chair, 2015-2017, 2020-

Member, Faculty Senate Parking Advisory Committee. I have served on this committee for many years and served as chair at least twice.

Chair, Committee on Committees, University of Nebraska Faculty Senate, 2008. One year term. Member, 2007–present.

Member, Committee on Committees, University of Nebraska College of Law, 2008–present.

Coordinator, Food Net distribution center, St John's Orthodox Church, Lincoln. FoodNet coordinates the distribution to the poor, extra food from local food retailers and producers. The center I coordinate distributes food weekly.

EXHIBIT 2

EXHIBIT 2

Materials Considered

Case Documents

- Plaintiffs' Complaint and exhibits filed thereto (Dkt. No 1)
- Order Denying ROSS's Motion to Dismiss (Dkt. No 32)
- Defendant and Counterclaimant Ross Intelligence, Inc.'s Amended Answer and Defenses and Amended Counterclaims in Response to Plaintiffs' Complaint and Demand for Jury Trial (Dkt. No 34)
- Memorandum Order Granting In Part and Denying In Part Plaintiffs' Motion to Dismiss (Dkt. No. 170)
- LEGALEASE-00165400
- LEGALEASE-00165856
- LEGALEASE-00166082
- LEGALEASE-00111836
- LEGALEASE-00113544
- LEGALEASE-00115186
- LEGALEASE-00115755
- LEGALEASE-00119815
- LEGALEASE-00119827
- LEGALEASE-00123981
- LEGALEASE-00124750
- LEGALEASE-00130136
- LEGALEASE-00130342
- LEGALEASE-00132781
- LEGALEASE-00132970

- LEGALEASE-00139081
- LEGALEASE-00139169
- LEGALEASE-00158862
- LEGALEASE-00162079
- LEGALEASE-00163157

Law:

- *Georgia v. Public.Resource.Org, Inc.*, 140 S. Ct. 1498, 206 L. Ed. 2d 732 (2020)

Articles, Publications

- Bob Ambrogi, *In Westlaw-ROSS Litigation, Judge Allows ROSS's Antitrust Case to Move Forward, But Tosses 'Sham Litigation' Claim*, Law Sites, (Apr. 26, 2022), <https://www.lawnext.com/2022/04/in-westlaw-ross-litigation-judge-allows-rosss-antitrust-case-to-move-forward-but-tosses-sham-litigation-claim.html>.
- West Publishing Co., *Century Edition of the American Digest: A Complete Digest of All Reported American Cases from the Earliest Times to 1896* (1897) ("Century Digest").
- West Publishing Co., *Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1897 to 1906* (1908) ("First Decennial Digest").
- West Publishing Co., *Descriptive-Word Index to Decennial and All Key-Number Digests: A Means of Finding the Authorities in Point Through the Words Descriptive of the legal Principles or of the Facts in the Case* (1912).
- West Publishing Co., *Second Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1906 to 1916* (1917)
- West Publishing Co., *Descriptive-Word Index to the First and Second Decennial digests: A Means of Finding the Authorities in Point Through the Words Descriptive of the Legal Principles or of the Facts in the Case* (1924).
- West Publishing Co., *Third Decennial Edition of the American Digest: A Complete Digest of all Reported Cases from 1916 to 1926* (1928).
- West Publishing Co., *Fourth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1926 to 1936* (1937); West Publishing Co., *Descriptive-Word Index Covering Third and Fourth Decennial Digests L-Z* (1940).

- West Publishing Co., *Fifth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1936 to 1946* (1947).
- West Publishing Co., *Sixth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1946 to 1956* (1957).
- West Publishing Co., *Seventh Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1956 to 1966* (1967).
- West Publishing Co., *Eighth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1966 to 1976* (1977).
- West Publishing Co., *Ninth Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1976 to 1981* (1982).
- West Publishing Co., *Ninth Decennial Digest, Part 2: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1981 to 1986* (1987).
- West Publishing Co., *Tenth Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1986 to 1991* (1992).
- West Publishing Co., *Tenth Decennial Digest, Part 2: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1991 to 1996* (1997).
- West Publishing Co., *Eleventh Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1996 to 2001* (2001).

EXHIBIT 3

EXHIBIT 3**Table No. 1: The Historical Origins of Current 1st Order and 2nd Order Subtopics in the West Topic & Key Number System for “Contracts” and “Contracts, Performance”**

Topic/Subtopic	Abbotts’ New York Digest (1864)	Abbotts’ National Digest (1867)	Abbotts’ “New “National Digest (1886)	Century Digest (1897)	First Decennial Digest (1908)	Westlaw Topic & Key Number Today (total of previous columns compared to Contracts subtopics today)
<i>Contracts, Subtopics (1st Order, including Performance or Breach)</i>		4	2			6/6
<i>Contracts, Performance or Breach, Subtopics (2nd Order)</i>	4		3	17	11	35/35

EXHIBIT 4

EXHIBIT 4

Table No. 2: Evolution of Top-Level West Topics, 1897 to Present¹

If printed, recommend using 11 x 17 paper

Digest Edition or Date Viewed on Westlaw	No. of Topics	New Top-Level Topics	Discontinued Top-Level Topics	Renamed Top-Level Topics	Revised Topics (per prefatory notes at the outset of the digest)
Century Digest ² (1658 to 1896)	412	Not Applicable	Not Applicable	Not Applicable	Not Applicable
First Decennial (1897 to 1906) ³	412	None	None	None	None
Second Decennial (1906 to 1916) ⁴	413	<ul style="list-style-type: none">● Public Service Commissions	None	<ul style="list-style-type: none">● Pawnbrokers and Money Lenders (from Pawnbrokers)● Trade-marks and Trade-names and Unfair Competition (from Trade-marks and Trade-names)	None
Third Decennial (1916 to 1926) ⁵	414	<ul style="list-style-type: none">● Automobiles	None	<ul style="list-style-type: none">● Insurrection and Sedition (from Insurrection)● Joint-Stock Companies and Business Trusts (from Joint-Stock Companies)● Levees and Flood Control (from Levees)	None
Fourth Decennial (1926 to 1936) ⁶	415	<ul style="list-style-type: none">● Workmen's Compensation⁷	None	<ul style="list-style-type: none">● Compounding Offenses (from Compounding Felony)	<ul style="list-style-type: none">● Bankruptcy (key number 498 & 499)⁸
Fifth Decennial (1936 to 1946) ⁹	418	<ul style="list-style-type: none">● Administrative Law and Procedure¹⁰● Declaratory Judgments¹¹● Federal Civil Procedure¹²	None	<ul style="list-style-type: none">● Telegraphs, Telephones and Radio (from Telegraphs and Telephones)● War and National Defense (from War)	<ul style="list-style-type: none">● Internal Revenue¹³● Army & Navy¹⁴● Bankruptcy¹⁵● Telegraphs, Telephones and Radio¹⁶
Sixth Decennial (1946 to 1956) ¹⁷	420	<ul style="list-style-type: none">● Aviation¹⁸● Labor Relations● Mental Health● Social Security and Public Welfare	<ul style="list-style-type: none">● Insane Persons (merged into Mental Health)● Trade Unions (merged into Labor Relations)	<ul style="list-style-type: none">● Armed Services (from Army and Navy)● Declaratory Judgment (from Declaratory Judgments)● Telecommunications (from Telegraphs, Telephones and Radio)	<ul style="list-style-type: none">● Armed Services (101-125)● Discovery (121-129)● Divorce (351-420)● Telecommunications
Seventh Decennial (1956 to 1966) ¹⁹	422	<ul style="list-style-type: none">● Secured²⁰ Transactions● Zoning²¹	None	<ul style="list-style-type: none">● Pardon and Parole (from Pardon)● Trade Regulation (from Trade-marks and Trade-names and Unfair Competition)	<ul style="list-style-type: none">● Arrest 71²²● Constitutional Law 268²³● Criminal Law 412, 517, 6271/2, 641, 998²⁴● Searches and Seizures 3²⁵● Insurance²⁶
Eighth Decennial (1966 to 1976) ²⁷	427	<ul style="list-style-type: none">● Arbitration (Arbitration and Reward plus Contracts key numbers)● Drugs and Narcotics (Druggists plus many others)● Federal Courts● Pretrial Procedure● Products Liability● Public Contracts● Securities Regulation● Military Justice²⁸ (from numerous topics: Criminal Law, Searches, Arrest, Indictments and Information, etc.)	<ul style="list-style-type: none">● Arbitration and Reward● Druggists	<ul style="list-style-type: none">● Health and Environment (from Health)● United States Magistrates (from United States Commissioners)● War and National Emergency (from War and National Defense)	<ul style="list-style-type: none">● Civil Rights● Social Security and Public Welfare● Taxation

Ninth Decennial, Part 1 (1976 to 1981) ²⁹	426	<ul style="list-style-type: none">● Abandoned and Lost Property (from Abandonment and Finding Lost Goods)● Abortion and Birth Control (from Abortion in part)● Accountants● Chemical Dependents (from Drugs & Narcotics and Drunkards)● Condominium● Consumer Credit● Consumer Protection (from Trade Regulation)● Debtor and Creditor (from numerous sections)● Deposits and Escrows (from Depositaries and Escrows)● Dower and Curtesy (combines the topics Dower and Curtesy)● Employers' Liability● Illegitimate Children (from Bastards)● Implied and Constructive Contracts● Urban Railroads	<ul style="list-style-type: none">● Abandonment (to Abandoned and Lost Property)● Abortion (to Abortion and Birth Control)● Assignments for Benefit of Creditors (to Debtor and Creditor)● Compositions with Creditors (to Debtor and Creditor)● Creditors' Suits (to Debtor and Creditor)● Curtesy (to Dower and Curtesy)● Depositaries (to Deposits and Escrows)● Dower (to Dower and Curtesy)● Drunkards (to Chemical Dependents)● Escrows (to Deposits and Escrows)● Finding Lost Goods (to Abandoned and Lost Property)● Insolvency (to Debtor and Creditor)● Literary Property (to Copyrights and Intellectual Property)● Marshaling Assets and Securities (to Debtor and Creditor)● Paupers (“Classification to this topic has been discontinued. For related cases, some of which have in the past been classified her, see topic Social Security and Public Welfare.”)● Pawnbrokers and Money Lenders (to Consumer Credit)	<ul style="list-style-type: none">● Copyrights and Intellectual Property (from Copyrights and Literary Property)● Credit Reporting Agencies (from Mercantile Agencies)● Extortion and Threats (from Extortion)● Extradition and Detainers (from Extradition)● Illegitimate Children (from Bastards)● Workers' Compensation (from Workmen's Compensation)● Zoning and Planning (from Zoning)	<ul style="list-style-type: none">● Administrative Law and Procedure● Bankruptcy● Internal Revenue● Social Security and Public Welfare
Ninth Decennial, Part 2 (1981 to 1986) ³⁰	410	<ul style="list-style-type: none">● Children Out-of-Wedlock (from Bastards; and Illegitimate Children (two separate Topics)● Commodity Futures Trading Regulation³¹	<ul style="list-style-type: none">● Apprentices (to Master & Servant)● Bastards (to Children Out-of-Wedlock)● Continuance (to Pretrial Procedure)● Depositions (to Pretrial Procedure)● Discovery (to Pretrial Procedure)● Dismissal and Nonsuit (to Pretrial Procedure)● Estates Tail (to Estates in Property)● Ground Rents (to Estates in Property)● Illegitimate Children (to Children Out-of-Wedlock)● Livery Stable Keepers (to Animals)● Money Lent (to Implied and Constructive Contracts)● Money Paid (to Implied and Constructive Contracts)● Money Received (to Implied and Constructive Contracts)● Reformatories (to Infants)● Street Railroads (to Urban Railroads)● Threats (to Extortion and Threats)● Use and Occupation (to Implied and Constructive Contracts)● Work and Labor (to Implied and Constructive Contracts)●	<ul style="list-style-type: none">● Children Out-of-Wedlock (from Bastards; and Illegitimate Children (two separate Topics)● Estates in Property (from Estates)● Officers and Public Employees (from Officers)● Public Utilities (from Public Service Commissions)● Schools (from Schools and School Districts)	<ul style="list-style-type: none">● Bankruptcy● Criminal Law● Indians● Infants● Internal Revenue● Jury● Pardon and Parole● Public Utilities (from Public Service Commissions)● Searches and Seizures● Securities Regulation● United States Magistrates
Tenth Decennial, Part 1 (1986 to 1991) ³²	402	<ul style="list-style-type: none">● Double Jeopardy³³● Racketeer Influenced and Corrupt Organizations	<ul style="list-style-type: none">● Abduction (to Criminal Law)● Affray (to Criminal Law)● Blasphemy (to Criminal Law)● Common Scold (to Criminal Law)● Dueling (to Criminal Law)● Embracery (to Criminal Law)● Fornication (to Criminal Law)● Miscegenation (to Criminal Law)● Piracy (to Criminal Law)● Prize Fighting (to Criminal Law)●	None	<ul style="list-style-type: none">● Bankruptcy● Civil Rights● Criminal Law● Federal Civil Procedure● Habeas Corpus● Internal Revenue
Tenth Decennial, Part 2 (1991 to 1996) ³⁴	402	None	None	None	None
Eleventh Decennial, Part 1 (1996 to 2001) ³⁵	405	<ul style="list-style-type: none">● Child Custody● Child Support● Sentencing and Punishment	None	<ul style="list-style-type: none">● Removal of Cases (from Removal of Causes)	None
April 1, 2002 from Westlaw (Custom Digest)	406	<ul style="list-style-type: none">● Merit Systems Protection	None	None	None
Week of July 15, 2002 per notification from Dan Dabney (Head Taxonomer for West) and verified from Westlaw on August 9, 2002 (Custom Digest)	404	<ul style="list-style-type: none">● Controlled Substances● Environmental Law● Health	<ul style="list-style-type: none">● Drugs and Narcotics● Health and Environment● Hospitals● Physicians and Surgeons● Poisons	None	None

Eleventh Decennial Digest, Part 2 (2001 to 2004)		<ul style="list-style-type: none">● Limited Liability Companies● Public Amusement and Entertainment● Trademarks● Unemployment Compensation	<ul style="list-style-type: none">● Theaters and Shows	None	None
January 5, 2007 from Westlaw (Custom Digest)		None	<ul style="list-style-type: none">● Citizens● Trade Regulation	None	None
May 20, 2009 from Westlaw (Custom Digest)		<ul style="list-style-type: none">● Privileged Communications and Confidentiality● P Protection of Endangered Persons	<ul style="list-style-type: none">● Breach of the Peace	None	None
Feb. 22, 2022 from Westlaw (“West Key Number System”)	363	<ul style="list-style-type: none">● Commercial Paper● Common Interest Communities● Extortion● Finance, Banking, and Credit● Lobbying● Public Assistance● Public Employment● Real Property Conveyances● Res Judicata● Sex Offenses● Social Security● Threats, Stalking, and Harassment	<ul style="list-style-type: none">● Accession● Adultery● Ambassadors and Consuls● Attachment● Banks and Banking (Subordinated under Finance Banking and Credit)● Beneficial Associations● Bigamy● Bills and Notes● Breach of Marriage Promise● Building and Loan Associations● Canals● Children Out-of-Wedlock● Clubs● Colleges and Universities● Compounding Offenses● Debt, Action of● 120 Deeds (Real Property Conveyances)● Drains (Subordinated under Water Law)● Escheat (Subordinated under Abandoned and Lost Property; and Wills)● Estates In Property (Subordinated under Property)● Exchange of Property (Subordinated under Real Property Conveyances)● Execution (Subordinated under Creditors’ Remedies)● 165 Extortion and Threats (split between Extortion and Threats, Stalking, and Harassment)● False Personation (Subordinated under False Pretenses)● Fixtures (Subordinated under Property)● Garnishment (Subordinated under Creditors’ Remedies)● Husband and Wife● Mayhem● Rape (to Sex Offenses)● Release● Remainders● Reversions● Social Security and Public Welfare (to Social Security and Public Assistance)● Sodomy (to Sex Offenses)● Tenancy in Common● Treaties● Trover and Conversion● Vendor and Purchaser● Waste● Merit Systems Protection	None	None

¹ To identify new top-level topics, discontinued top-level topics, renamed top-level topics, and revised top-level topics, I compared each Digest to the preceding Digest edition.

² West Publishing Co., *Century Edition of the American Digest: A Complete Digest of All Reported American Cases from the Earliest Times to 1896* (1897).

³ West Publishing Co., *Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1897 to 1906* (1908); *see also* West Publishing Co., *Descriptive-Word Index to Decennial and All Key-Number Digests: A Means of Finding the Authorities in Point Through the Words Descriptive of the legal Principles or of the Facts in the Case* (1912).

⁴ West Publishing Co., *Second Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1906 to 1916* (1917); *see also* West Publishing Co., *Descriptive-Word Index to the First and Second Decennial digests: A Means of Finding the Authorities in Point Through the Words Descriptive of the Legal Principles or of the Facts in the Case* (1924).

⁵ West Publishing Co., *Third Decennial Edition of the American Digest: A Complete Digest of all Reported Cases from 1916 to 1926* (1928).

⁶ West Publishing Co., *Fourth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1926 to 1936* (1937); West Publishing Co., *Descriptive-Word Index Covering Third and Fourth Decennial Digests L-Z* (1940).

⁷ *Fourth Decennial Digest*, *supra* note 6 (“A new Topic, *Workmen's Compensation*, has been incorporated for the first time, containing all the cases on this subject from the earliest times to date.”).

⁸ *Id.* (“Existing topics have been expanded to include new matter. Such is the topic, Bankruptcy, [key number symbol] 498, dealing with Reorganization of Corporations, and [key number symbol] 499, Reorganization of Railroads.”).

⁹ West Publishing Co., *Fifth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1936 to 1946* (1947).

¹⁰ *Id.* (“Administrative Law and Procedure—Provides for changes which are brought about by the new Administrative Procedure Act, Tit. 5 U.S.C.A. §§ 1001-1011.”).

¹¹ *Id.* (“Declaratory Judgments—Accommodates the exceptional activity and growth in this field of litigation.”).

¹² *Id.* (“Federal Civil Procedure--Reflects thoroughly the modern procedure set up in the new Rules of Civil Procedure and provides ready access to cases covering practice and procedure in the District Courts of the United States.”).

¹³ *Id.* (“Internal Revenue—With the growing activities in the field of taxation this topic has been extensively broadened to meet this situation.”).

¹⁴ *Fifth Decennial Digest*, *supra* note 9 (“Army & Navy—Litigation involving questions arising out of World War II, see Army & Navy [key number symbol] 55 et seq.”).

¹⁵ *Id.* (“Bankruptcy—Changes in Bankruptcy reorganization laws, (Tit. 11, U.S.C.A. §§ 501 et seq.), have been provided for under Bankruptcy [Key Number symbol] 601 et seq.”).

¹⁶ *Id.* (“Radio—The new and active field of radio is represented in the expanded topic Telephones, Telegraphs and Radio, bringing together the three kindred branches of communication.”).

¹⁷ West Publishing Co., *Sixth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1946 to 1956* (1957).

¹⁸ *Id.* (“So that the Bench and Bar may have convenient access to all cases for these major developments in the Key Number System, included in this digest are all cases from the earliest times to date for the following new or expanded topics: Armed Services [key number symbol] 101-125, Aviation, Discovery [key number symbol] 121-129, Divorce [key number symbol] 351-420, Labor Relation, Mental Health, Social Security and Public Welfare, Telecommunications.”).

¹⁹ West Publishing Co., *Seventh Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1956 to 1966* (1967).

²⁰ *Id.* (“To further reflect the change and development that marked this dynamic decade, the Publisher's classification experts ... have prepared and added the following new topics, covering all decisional law from earliest times to the present: SECURED TRANSACTIONS, TRADE REGULATION, and ZONING.”).

²¹ *Id.*

²² *Id.* (“The period covered by this Decennial has seen many important additions to the ever-expanding body of decisional law. Perhaps nothing in the history of our criminal jurisprudence has so shaken traditional concepts as have the pronouncements, during this decennium, of the Supreme Court of the United States defining the rights of an accused. In view of the importance of these decisions, and so that the researcher might have readily available all of the precedents on the questions involved, the following KEY NUMBERS have been expanded to include all cases from earliest times to date: Arrest [key number symbol] 71; Constitutional Law [Key Number symbol] 268; Criminal Law [Key Number symbols] 412,517, 627 1/2, 641, 998; and Searches and Seizures [Key Number symbol] 3. To further reflect the change and development that marked this dynamic decade, the Publisher's classification experts have completely revised the topic INSURANCE[.]”).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ West Publishing Co., *Eighth Decennial Digest: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1966 to 1976* (1977) (“[T]he following new and revised topics have been developed and are included in this Eighth Decennial Digest: ARBITRATION; CIVIL RIGHTS; DRUGS AND NARCOTICS; FEDERAL COURTS; PRETRIAL PROCEDURE; PRODUCTS LIABILITY; PUBLIC CONTRACTS; SECURITIES REGULATION; SOCIAL SECURITY AND PUBLIC WELFARE; TAXATION.”).

²⁸ *Id.* Inclusion of “Military Justice” as drawing together content from other Topics but not as of yet reprinting all of the headnote glosses in that particular volume under the new Topic of “Military Justice.” Instead, the user is left to use the table to find the new Military Justice sub-topics within Topics appearing in other volumes of the *Eighth Decennial Digest* and earlier West Digests.

²⁹ West Publishing Co., *Ninth Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1976 to 1981* (1982) (“The following new and revised topics have been developed and are included in this Ninth Decennial Digest, Part 1: Abandoned and Lost Property; Abortion and Birth Control; Accountants; Administrative Law and Procedure; Bankruptcy; Chemical Dependents; Condominium; Consumer Credit; Consumer Protection; Copyrights and Intellectual Property; Credit Reporting Agencies; Debtor and Creditor; Deposits and Escrows; Dower and Curtesy; Employers’ Liability; Extortion and Threats; Extradition and Detainers; Illegitimate Children; Implied and Constructive Contracts; Internal Revenue; Social Security and Public Welfare; Urban Railroads; Zoning and Planning.”).

³⁰ West Publishing Co., *Ninth Decennial Digest, Part 2: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1981 to 1986* (1987)

³¹ *Id.* (“The following new and revised topics have been developed and are included in this Ninth Decennial Digest, Part 2: Bankruptcy; Criminal Law; Commodity Futures Trading Regulation; Indians; Infants; Internal Revenue; Jury; Pardon and Parole; Public Utilities; Searches and Seizures; Securities Regulation; United States Magistrates.”).

³² West Publishing Co., *Tenth Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1986 to 1991* (1992).

³³ *Id.* (“The following new and revised topics have been developed and are included in this Tenth Decennial Digest, Part 1: Bankruptcy; Civil Rights; Criminal Law; Double Jeopardy; Federal Civil Procedure; Habeas Corpus; Internal Revenue; Racketeer Influenced and Corrupt Organizations.”).

³⁴ West Publishing Co., *Tenth Decennial Digest, Part 2: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1991 to 1996* (1997).

³⁵ West Publishing Co., *Eleventh Decennial Digest, Part 1: A Complete Digest of All Decisions of the State and Federal Courts as Reported in the National Reporter System and the State Reports, 1996 to 2001* (2001).

EXHIBIT 5

EXHIBIT 5**Table No. 3: Century Digest Topics & Sub-Topics (1897) & Their Present-Day Equivalent**

Century Digest Volume Number	Century Digest Volume Name	Century Digest Publication Year	Century Digest Top-Level Topic	2022 Topic Number if Applicable	2022 Topic Name or Topic Subordinated Under	Action as to the Present
1	Abandonment — Advocate	1897	Abandonment	1	Abandoned and Lost Property	Renamed
			Abatement and Revival	2	Abatement and Revival	Original
			Abduction	NA	110 Criminal Law	Subordinated Under
			Abortion	4	Abortion and Birth Control	Renamed
			Absentees	5	Absentees	Original
			Abstracts of Title	6	Abstracts of Title	Original
			Accession	NA	315 Property	Subordinated Under
			Accord and Satisfaction	8	Accord and Satisfaction	Original
			Account	9	Account	Original
			Account, Action on	10	Account, Action on	Original
			Account Stated	11	Account Stated	Original
			Acknowledgement	12	Acknowledgement	Original
			Action	13	Action	Original
			Action on the Case	14	Action on the Case	Original
			Adjoining Landowners	15	Adjoining Landowners	Original
			Admiralty	16	Admiralty	Original
			Adoption	17	Adoption	Original
			Adulteration	18	Adulteration	Original
			Adultery	NA	253 Marriage and Cohabitation; 134 Divorce	Subordinated Under
			Adverse Possession	20	Adverse Possession	Original
2		1898	Affidavits	21	Affidavits	Original

	Affidavits— Appeal and Error (Divisions I. to IX.)		Affray	NA	110 Criminal Law	Subordinated Under
			Agriculture	23	Agriculture	Original
			Aliens	24	Aliens, Immigration, And Citizenship	Renamed
			Alteration of Instruments	25	Alteration of Instruments	Original
			Ambassadors and Consuls	NA	221 International Law	Subordinated Under
			Amicus Curiae	27	Amicus Curiae	Original
			Animals	28	Animals	Original
			Annuities	29	Annuities	Original
			Appeal and Error	30	Appeal and Error	Original
3	Appeal and Error (Divisions X. to XVIII) — Aqueducts	1898	Appearance	31	Appearance	Original
			Apprentices	NA	Master and Servant (subsequently, 308 Principle and Agent)	Subordinated Under
4	Arbitration and Award — Associations	1898	Arbitration and Award	NA	25T Alternative Dispute Resolution	Subordinated Under
			Army and Navy	34	Armed Services	Renamed
			Arrest	35	Arrest	Original
			Arson	36	Arson	Original
			Assault and Battery	37	Assault and Battery	Original
			Assignments	38	Assignments	Original
			Assignments for Benefit of Creditors	NA	Debtor and Creditor (subsequently, 108H Creditors' Remedies)	Subordinated Under
			Assistance, Writ of	40	Assistance, Writ of	Original
			Associations	41	Associations	Original
5	Assumpsit, Action of — Bailiffs	1898	Assumpsit, Action of	42	Assumpsit, Action of	Original
			Asylums	43	Asylums and Assisted Living Facilities	Renamed
			Attachment	NA	108H Creditors' Remedies	Subordinated Under

			Attorney and Client	46H	Attorneys and Legal Services	Renamed
			Attorney General	46	Attorney General	Original
			Auctions and Auctioneers	47	Auctions and Auctioneers	Original
			Audita Querela	48	Audita Querela	Original
			Bail	49	Bail	Original
6	Bailment — Bill Quia Timet	1899	Bailment	50	Bailment	Original
			Bankruptcy	51	Bankruptcy	Original
			Banks and Banking	NA	172H Finance, Banking, and Credit	Subordinated Under
			Bastards	NA	Children Out-of-Wedlock (subsequently, 76E. Child Support and 285. Parent and Child)	Subordinated Under
			Beneficial Associations	NA	41 Associations	Subordinated Under
			Bigamy	NA	253 Marriage and Cohabitation	Subordinated Under
7	Bills and Notes — Bonded Warehouses	1899	Bills and Notes	NA	83E Commercial Paper	Subordinated Under
			Blasphemy	NA	110 Criminal Law	Subordinated Under
8	Bonds — Carnal Knowledge	1899	Bonds	58	Bonds	Original
			Boundaries	59	Boundaries	Original
			Bounties	60	Bounties	Original
			Breach of Marriage Promise	NA	253 Marriage and Cohabitation	Subordinated Under
			Breach of the Peace	NA	129 Disorderly Conduct	Subordinated Under
			Bribery	63	Bribery	Original
			Bridges	64	Bridges	Original
			Brokers	65	Brokers	Original
			Building and Loan Associations	NA	172H Finance, Banking, and Credit	Subordinated Under

			Burglary	67	Burglary	Original
			Canals	NA	405 Water Law	Subordinated Under
			Cancellation of Instruments	69	Cancellation of Instruments	Original
9	Carriers — Cities	1899	Carriers	70	Carriers	Original
			Cemeteries	71	Cemeteries	Original
			Census	72	Census	Original
			Certiorari	73	Certiorari	Original
			Champerty and Maintenance	74	Champerty and Maintenance	Original
			Charities	75	Charities	Original
			Chattel Mortgages	76	Chattel Mortgages	Original
10	Citizens — Contractors	1899	Citizens	NA	24 Aliens, Immigration, and Citizenship	Subordinated Under
			Civil Rights	78	Civil Rights	Original
			Clerks of Courts	79	Clerks of Courts	Original
			Clubs	NA	Various (23H Alcoholic beverages; 78 Civil Rights; 220 Internal Revenue; 414 Zoning and Planning)	Subordinated Under
			Colleges and Universities	NA	141E Education	Subordinated Under
			Collision	82	Collision	Original
			Commerce	83	Commerce	Original
			Common Lands	84	Common Lands	Original
			Common Law	85	Common Law	Original
			Common Scold	NA	110 Criminal Law	Subordinated Under
			Compositions with Creditors	NA	Debtor and Creditor (subsequently, 108H Creditors' Remedies)	Subordinated Under
			Compounding Felony	NA	282 Obstructing Justice	Subordinated Under

			Compromise and Settlement	89	Compromise, Settlement, And Release	Renamed
			Confusion of Goods	90	Confusion of Goods	Original
			Conspiracy	91	Conspiracy	Original
			Constitutional Law	92	Constitutional Law	Original
			Contempt	93	Contempt	Original
			Continuance	NA	307A Pretrial Procedure	Subordinated Under
11	Contracts — Corporation Courts	1899	Contracts	95	Contracts	Original
			Contribution	96	Contribution	Original
			Conversion	97C	Conversion and Civil Theft	Renamed
			Convicts	98	Convicts	Original
			Copyrights	99	Copyrights and Intellectual Property	Renamed
			Coroners	100	Coroners	Original
12	Corporations — Co-Servants	1899	Corporations	101	Corporations and Business Organizations	Renamed
13	Costs — Courtyard	1899	Costs	102	Costs, Fees, and Sanctions	Renamed
			Counterfeiting	103	Counterfeiting	Original
			Counties	104	Counties	Original
			Court Commissioners	105	Court Commissioners	Original
			Courts	106	Courts	Original
14	Covenant, Action of — Criminal Law (Divisions I to XII)	1899	Covenant, Action of	107	Covenant, Action of	Original
			Covenants	108	Covenants	Original
			Creditors' Suits	NA	Debtor and Creditor (subsequently, 108H Creditors' Remedies)	Subordinated Under
			Criminal Law	110	Criminal Law	Original
15	Criminal Law (Divisions XIII to XVII) —	1900	Crops	111	Crops	Original
			Curtesy	NA	Dower and Curtesy (Subsequently 124 Descent and Distribution)	Subordinated Under

	Dedimus Potestatem		Customs and Usages	113	Customs and Usages	Original
			Customs Duties	114	Customs Duties	Original
			Damages	115	Damages	Original
			Dead Bodies	116	Dead Bodies	Original
			Death	117	Death	Original
			Debt, Action of	NA	108H Creditors' Remedies	Subordinated Under
			Dedication	118	Dedication	Original
16	Deeds — Disjunctive Allegations	1900	Deeds	NA	322H Real Property Conveyances	Subordinated Under
			Depositaries	NA	122A Deposits and Escrows	Subordinated Under
			Depositions	NA	307A Pretrial Procedure	Subordinated Under
			Deposits in Court	123	Deposits in Court	Original
			Descent and Distribution	124	Descent and Distribution	Original
			Detectives	125	Detectives and Security Guards	Renamed
			Detinue	126	Detinue	Original
			Discovery	NA	307A Pretrial Procedure	Subordinated Under
17	Dismissal and Nonsuit — Ejusdem Generis	1900	Dismissal and Nonsuit	NA	307A Pretrial Procedure	Subordinated Under
			Disorderly Conduct	129	Disorderly Conduct	Original
			Disorderly House	130	Disorderly House	Original
			District and Prosecuting Attorneys	131	District and Prosecuting Attorneys	Original
			District of Columbia	132	District of Columbia	Original
			Disturbance of Public Assemblage	133	Disturbance of Public Assemblage	Original
			Divorce	134	Divorce	Original
			Domicile	135	Domicile	Original

			Dower	NA	Dower and Curtesy (Subsequently 124 Descent and Distribution)	Subordinated Under
			Drains	NA	405 Water Law	Subordinated Under
			Druggists	NA	Drugs and Narcotics (Subsequently 96H Controlled Substances)	Subordinated Under
			Drunkards	NA	76A Chemical Dependents	Subordinated Under
			Dueling	NA	110 Criminal Law	Subordinated Under
			Easements	141	Easements	Original
			Ejectment	142	Ejectment	Original
18	Election — Equitable Waste	1900	Election of Remedies	143	Election of Remedies	Original
			Elections	142T	Election Law	Renamed
			Electricity	145	Electricity	Original
			Embezzlement	146	Embezzlement	Original
			Embracery	NA	110 Criminal Law	Subordinated Under
			Eminent Domain	148	Eminent Domain	Original
			Entry, Writ of	149	Entry, Writ of	Original
19	Equity — Eviction	1900	Equity	150	Equity	Original
			Escape	151	Escape	Original
			Escheat	NA	1 Abandoned and Lost Property; and 409 Wills	Subordinated Under
			Escrows	NA	122A Deposits and Escrows	Subordinated Under
			Estates	NA	315 Property	Subordinated Under
			Estates Tail	NA	315 Property	Subordinated Under
			Estoppel	156	Escape	Original
20	Evidence — Excavations	1900	Evidence	157	Evidence	Original

21	Exceptions — Executor de Son Tort	1900	Exceptions, Bill of	158	Exceptions, Bill of	Original
			Exchange of Property	NA	322H Real Property Conveyances	Subordinated Under
			Exchanges	160	Exchanges	Original
			Execution	NA	108H Creditors' Remedies	Subordinated Under
22	Executors and Administrators — Exemplification	1901	Executors and Administrators	162	Executors and Administrators	Original
23	Exemptions — Frauds, Statute of	1901	Exemptions	163	Exemptions	Original
			Explosives	164	Explosives	Original
			Extortion	164T	Extortion	Original
			Extradition	166	Extradition and Detainers	Renamed
			Factors	167	Factors	Original
			False Imprisonment	168	False Imprisonment	Original
			False Personation	NA	170 False Pretenses	Subordinated Under
			False Pretenses	170	False Pretenses	Original
			Fences	171	Fences	Original
			Ferries	172	Ferries	Original
			Finding Lost Goods	NA	1 Abandoned and Lost Property	Subordinated Under
			Fines	174	Fines	Original
			Fires	175	Fires	Original
			Fish	176	Fish	Original
			Fixtures	NA	315 Property	Subordinated Under
			Food	178	Food	Original
			Forcible Entry and Detainer	179	Forcible Entry and Detainer	Original
			Forfeitures	180	Forfeitures	Original
			Forgery	181	Forgery	Original

			Fornication	NA	110 Criminal Law	Subordinated Under
			Franchises	183	Franchises	Original
			Fraud	184	Fraud	Original
			Frauds, Statute of	185	Frauds, Statute of	Original
24	Fraudulent Conveyances — Guano	1901	Fraudulent Conveyances	186	Fraudulent Conveyances	Original
			Game	187	Game	Original
			Gaming	188	Gaming and Lotteries	Subordinated Under
			Garnishment	NA	108H Creditors' Remedies	Subordinated Under
			Gas	190	Gas	Original
			Gifts	191	Gifts	Original
			Good Will	192	Good Will	Original
			Grand Jury	193	Grand Jury	Original
			Ground Rents	NA	Estates in Property (Subsequently 315 Property)	Subordinated Under
25	Guaranty — Homestead	1901	Guaranty	195	Guaranty	Original
			Guardian and Ward	196	Guardian and Ward	Original
			Habeas Corpus	197	Habeas Corpus	Original
			Hawkers and Peddlers	198	Hawkers and Peddlers	Original
			Health	198H	Health (became Health and Environment from 1977 to 2002 before reverting to 198H Health)	Original
			Highways	200	Highways	Original
			Holidays	201	Holidays	Original
			Homestead	202	Homestead	Original
26	Homicide — Imprisonment	1901	Homicide	203	Homicide	Original
			Hospitals	NA	198H Health	Subordinated Under
			Husband and Wife	NA	253 Marriage and Cohabitation	Subordinated Under

27	Improvements – Insimul Computassent	1901	Improvements	NA	315 Property	Subordinated Under
			Incest	207	Incest	Original
			Indemnity	208	Indemnity	Original
			Indians	209	Indians	Original
			Indictment and Information	210	Indictment and Charging Instruments	Renamed
			Infants	211	Infants	Original
			Injunction	212	Injunction	Original
			Innkeepers	213	Innkeepers	Original
			Insane Persons	NA	Mental Health	Subordinated Under
28	Insolvency -- Insurance	1901	Insolvency	NA	Debtor and Creditor (Subsequently, 108H Creditors' Remedies)	Subordinated Under
			Inspection	216	Inspection	Original
			Insurance	217	Insurance	Original
29	Insurrection – Judges	1901	Insurrection	218	Insurrection and Sedition	Renamed
			Interest	219	Interest	Original
			Internal Revenue	220	Internal Revenue	Original
			International Law	221	International Law	Original
			Interpleader	222	Interpleader	Original
			Intoxicating Liquors	23H	Alcoholic Beverages	Renamed
			Joint Adventures	226H	Joint Ventures	Renamed
			Joint-Stock Companies	NA	101 Corporations and Business Organizations	Subordinated Under
			Joint Tenancy	NA	322H Real Property Conveyances	Subordinated Under
			Judges	227	Judges	Original
30	Judgment – Judicial Process	1902	Judgment	228	Judgment	Original
31		1902	Judicial Sales	229	Judicial Sales	Original

	Judicial Sales – Landing		Jury	230	Jury	Original
			Justices of the Peace	231	Justices of the Peace	Original
			Kidnapping	231E	Kidnapping	Original
32	Landlord and Tenant – Life Annuity	1902	Landlord and Tenant	233	Landlord and Tenant	Original
			Larceny	234	Larceny	Original
			Levees	NA	405 Water Law	Subordinated Under
			Lewdness	NA	281 Obscenity	Subordinated Under
			Libel and Slander	237	Libel and Slander	Original
			Licenses	238	Licenses	Original
			Liens	239	Liens	Original
33	Life Estates – Mantraps	1902	Life Estates	NA	315 Property	Subordinated Under
			Limitation of Actions	241	Limitation of Actions	Original
			Lis Pendens	242	Lis Pendens	Original
			Literary Property	NA	99 Copyrights and Intellectual Property	Subordinated Under
			Livery Stable Keepers	NA	28 Animals	Subordinated Under
			Logs and Logging	245	Logs and Logging	Original
			Lost Instruments	246	Lost Instruments	Original
			Lotteries	188	Gaming and Lotteries	Subordinated Under
			Malicious Mischief	248	Malicious Mischief	Original
			Malicious Prosecution	249	Malicious Prosecution	Original
			Mandamus	250	Mandamus	Original
34	Manufactures – Miscarriage	1902	Manufactures	251	Manufactures	Original
			Maritime Liens	252	Maritime Liens	Original
			Marriage	253	Marriage and Cohabitation	Renamed

			Marshaling Assets and Securities	NA	108 Creditors' Remedies	Subordinated Under
			Master and Servant	NA	308 Principal and Agent	Subordinated Under
			Mayhem	NA	37 Assault and Battery	Subordinated Under
			Mechanics' Liens	257	Mechanics' Liens	Original
			Mercantile Agencies	NA	Renamed Credit Reporting Agencies and subsequently subordinated under 172H Finance, Banking, and Credit	Subordinated Under
			Militia	259	Militia	Original
			Mines and Minerals	260	Mines and Minerals	Original
35	Miscegenation – Municipal Aid	1902	Miscegenation	NA	110 Criminal Law	Subordinated Under
			Money Lent	NA	205H Implied and Constructive Contracts	Subordinated Under
			Money Paid	NA	205H Implied and Constructive Contracts	Subordinated Under
			Money Received	NA	205H Implied and Constructive Contracts	Subordinated Under
			Monopolies	265	Monopolies	Original
			Mortgages	266	Mortgages and Deeds of Trust	Renamed
			Motions	267	Motions	Original
36	Municipal Corporations – Naval Officers	1902	Municipal Corporations	268	Municipal Corporations	Original
			Names	269	Names	Original
37	Navigable Waters – Parties	1902	Navigable Waters	NA	405 Water Law	Subordinated Under
			Ne Exeat	271	Ne Exeat	Original
			Negligence	272	Negligence	Original
			Neutrality Laws	NA	221 International Law	Subordinated Under
			Newspapers	274	Newspapers	Original

			New Trial	275	New Trial	Original
			Notaries	276	Notaries	Original
			Notice	277	Notice	Original
			Novation	278	Novation	Original
			Nuisance	279	Nuisance	Original
			Oath	280	Oath	Original
			Obscenity	281	Obscenity	Original
			Obstructing Justice	282	Obstructing Justice	Original
			Officers	NA	Renamed Officers and Public Employees and subsequently subordinated under 316P Public Employment	Subordinated Under
			Pardon	284	Pardon and Parole	Renamed
			Parent and Child	285	Parent and Child	Original
			Parliamentary Law	286	Parliamentary Law	Original
			Parties	287	Parties	Original
38	Partition – Paymasters	1903	Partition	288	Partition	Original
			Partnership	289	Partnership	Original
			Party Walls	290	Party Walls	Original
			Patents	291	Patents	Original
			Paupers	NA	316E Public Assistance	Subordinated Under
			Pawnbrokers	NA	172H Finance, Banking, and Credit	Subordinated Under
39	Payment – Pleading	1903	Payment	294	Payment	Original
			Penalties	295	Penalties	Original
			Pensions	296	Pensions	Original
			Perjury	297	Perjury	Original
			Perpetuities	298	Perpetuities	Original

			Physicians and Surgeons	NA	198 Health	Subordinated Under
			Pilots	300	Pilots	Original
			Piracy	NA	110 Criminal Law	Subordinated Under
			Pleading	302	Pleading	Original
40	Pledges – Public Interest	1903	Pledges	303	Pledges	Original
			Poisons	NA	96H Controlled Substances	Subordinated Under
			Possessory Warrant	305	Possessory Warrant	Original
			Post Office	306	Postal Service	Renamed
			Powers	307	Powers	Original
			Principal and Agent	308	Principal and Agent	Original
			Principal and Surety	309	Principal and Surety	Original
			Prisons	310	Prisons	Original
			Private Roads	311	Private Roads	Original
			Prize Fighting	NA	110 Criminal Law	Subordinated Under
			Process	313	Process	Original
			Prohibition	314	Prohibition	Original
			Property	315	Property	Original
			Prostitution	315H	Prostitution	Original
41	Public Lands – Rank	1903	Public Lands	317	Public Lands	Original
			Quieting Title	318	Quieting Title	Original
			Quo Warranto	319	Quo Warranto	Original
			Railroads	320	Railroads	Original
42	Rape – Salary	1903	Rape	352H	Sex Offenses	Subordinated Under
			Real Actions	322	Real Actions	Original
			Receivers	323	Receivers	Original
			Receiving Stolen Goods	324	Receiving Stolen Goods	Original

			Recognizances	325	Recognizances	Original
			Records	326	Records	Original
			Reference	327	Reference	Original
			Reformation of Instruments	328	Reformation of Instruments	Original
			Reformatories	NA	211 Infants	Subordinated Under
			Registers of Deeds	330	Register of Deeds	Original
			Release	NA	89 Compromise, Settlement, and Release	Subordinated Under
			Religious Societies	332	Religious Societies	Original
			Remainders	NA	315 Property	Subordinated Under
			Removal of Causes	334	Removal of Cases	Renamed
			Replevin	335	Replevin	Original
			Reports	336	Reports	Original
			Rescue	337	Rescue	Original
			Reversions	NA	315 Property	Subordinated Under
			Review	339	Review	Original
			Rewards	340	Rewards	Original
			Riot	341	Riot	Original
			Robbery	342	Robbery	Original
43	Sales – Shifting Use	1903	Sales	343	Sales	Original
			Salvage	344	Salvage	Original
			Schools and School Districts	NA	Renamed Schools and subsequently subordinated under 141E Education	Subordinated Under
			Scire Facias	346	Scire Facias	Original
			Seals	347	Seals	Original
			Seamen	348	Seamen	Original
			Searches and Seizures	349	Searches and Seizures	Original

			Seduction	350	Seduction	Original
			Sequestration	351	Sequestration	Original
			Set-off and Counterclaim	352	Set-off and Counterclaim	Original
			Sheriffs and Constables	353	Sheriffs and Constables	Original
44	Shipping – Subscribing Witnesses	1903	Shipping	354	Shipping	Original
			Signatures	355	Signatures	Original
			Slaves	204T	Human Trafficking and Slavery	Renamed
			Sodomy	NA	352H Sex Offenses	Subordinated Under
			Specific Performance	358	Specific Performance	Original
			Spendthrifts	359	Spendthrifts	Original
			States	360	States	Original
			Statutes	361	Statutes	Original
			Steam	362	Steam	Original
			Stipulations	363	Stipulations	Original
			Street Railroads	NA	396A Urban Railroads	Subordinated Under
			Submission of Controversy	365	Submission of Controversy	Original
			Subrogation	366	Subrogation	Original
45	Subscriptions – Trade Fixtures	1904	Subscriptions	367	Subscriptions	Original
			Suicide	368	Suicide	Original
			Sunday	369	Sunday	Original
			Supersedeas	370	Supersedeas	Original
			Taxation	371	Taxation	Original
			Telegraphs and Telephones	372	Telegraphs, Telephones and Radio; subsequently Telecommunications	Renamed
			Tenancy in Common	NA	315 Property	Subordinated Under
			Tender	374	Tender	Original

			Territories	375	Territories	Original
			Theaters and Shows	315T	Public Amusement and Entertainment	Renamed
			Threats	377E	First subordinated under Extortion and Threats; Subsequently broken off as a separate category and renamed Threats, Stalking, and Harassment.	Renamed
			Time	378	Time	Original
			Torts	379	Torts	Original
			Towage	380	Towage	Original
			Towns	381	Towns	Original
46	Trade-Marks and Trade-Names – Trioris	1904	Trade-marks and Trade-names	382T	First subordinated under Trade-marks and Trade-names and Unfair Competition; Subsequently renamed Trade Regulation; Subsequently renamed Trademarks as Trade Regulation was split off and added to 29T Antitrust and Trade Regulation.	Renamed
			Trade Unions	NA	Labor Relations; Subsequently 231H Labor and Employment	Subordinated Under
			Treason	384	Treason	Original
			Treaties	NA	221 International Law	Subordinated Under
			Trespass	386	Trespass	Original
			Trespass to Try Title	387	Trespass to Try Title	Original
			Trial	388	Trial	Original
47	Trover and Conversion – Venditioni Exponas	1904	Trover and Conversion	97C	Conversion and Civil Theft	Renamed
			Trusts	390	Trusts	Original
			Turnpikes and Toll Roads	391	Turnpikes and Toll Roads	Original
			Undertakings	392	Undertakings	Original
			United States	393	United States	Original

			United States Commissioners	394	United States Magistrates; Subsequently, United States Magistrate Judges	Renamed
			United States Marshals	395	United States Marshals	Original
			Unlawful Assembly	396	Unlawful Assembly	Original
			Use and Occupation	NA	205H Implied and Constructive Contracts	Subordinated Under
			Usury	398	Usury	Original
			Vagrancy	399	Vagrancy	Original
48	Vendor and Purchaser — Willful Injuries	1904	Vendor and Purchaser	NA	322H Real Property Conveyances	Subordinated Under
			Venue	401	Venue	Original
			War	402	War and National Defense; subsequently War and National Emergency	Renamed
			Warehousemen	403	Warehouseman	Original
			Waste	NA	149E Environmental Law	Subordinated Under
			Waters and Water Courses	405	Water Law	Renamed
			Weapons	406	Weapons	Original
			Weights and Measures	407	Weights and Measures	Original
			Wharves	408	Wharves	Original
49	Wills – Without Recourse	1904	Wills	409	Wills	Original
50	Witnesses – Year	1904	Witnesses	410	Witnesses	Original
			Woods and Forests	411	Woods and Forests	Original
			Work and Labor	NA	205H Implied and Constructive Contracts	Subordinated Under

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMSON REUTERS ENTERPRISE
CENTRE GMBH and WEST PUBLISHING
CORPORATION,

Plaintiffs,

v.

ROSS INTELLIGENCE INC.,

Defendant.

Case No. 1:20-cv-00613-SB

CONFIDENTIAL

**REBUTTAL REPORT TO THE REPORT OF PLAINTIFFS' EXPERT DR. JONATHAN
L. KREIN BY DEFENDANT'S EXPERT PROFESSOR RICHARD LEITER, J.D.**

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I. INTRODUCTION

1. I have been retained on behalf of Defendant ROSS Intelligence, Inc. (“ROSS”) in the above-captioned matter. ROSS’s counsel requested that I review and respond to the expert report submitted by Plaintiffs West Publishing Corporation and Thomson Reuters Enterprise Centre GmbH’s (“Plaintiffs”) expert, Jonathan Krein, August 1, 2022 (“Krein Report”). This rebuttal report describes my opinions with respect to Krein’s assertions regarding the 91-top level topics of the West Key Number System (“WKNS”). This report describes my analysis process, findings, and the opinions I have reached in light of the materials I have reviewed and considered. It also presents the bases for those opinions.

II. EXPERIENCE AND QUALIFICATIONS

2. My experience and qualifications are provided in my August 1, 2022 Expert Report (“Opening Report”). A current copy of my CV is attached hereto as Rebuttal Exhibit 1. In addition to materials listed in Exhibit 2 to my Opening Report, any additional materials that I received and considered in conjunction with the preparation of this report are attached hereto as Rebuttal Exhibit 2.

3. My hourly rate to prepare this report and to testify at deposition and trial is \$400 per hour. My compensation is not dependent upon the outcome of this case. I have never been retained as an expert or testified in federal or state court as an expert. This report reflects the opinions that I have formed through my own independent analysis and evaluation, and if called upon as a witness, I could testify completely as to these matters.

III. CONFIDENTIALITY

4. I have read and agreed to abide by the Stipulated Protective Order (Dkt. 48) issued by this Court on May 21, 2021. This report is based, in part, on information which

Plaintiffs have designated as CONFIDENTIAL pursuant to the stipulated protective order.

Accordingly, this report has been designated CONFIDENTIAL, and should be treated with care as it is subject to the protective restrictions from the Stipulated Protective Order.

IV. **MATERIALS CONSIDERED**

5. Since the filing of my Opening Report I have been provided with a copy of the report and attachments produced by Plaintiff's expert, Opening Expert Report of Dr. Jonathan L. Krein ("Krein Report"). I have also been provided with Plaintiffs' Third Supplemental Interrogatory Response, and the exhibits thereto. The materials which I considered in forming the opinions set forth in this Rebuttal Report are cited directly in this report or are the documents listed in Exhibit 2.

V. **THE TOP LEVEL DIGEST TOPICS ARE NOT CREATIVE OR UNIQUE TO WEST, RATHER THEY FOLLOW THE LOGICAL AND ORDINARY LANGUAGE OF THE LAW**

6. The Krein Report claims that "[c]opying of the WKNS is also evident from a review of the "practice areas" that ROSS used in developing its case classifier, which it did by mapping the "practice areas" LegalEase and Morae Global provided in the file names of the Bulk Memos to ROSS's internal practice area list. Specifically, Krein claims that it is "very clear" that the LPO Classification (as depicted in the chart at p. 58-60 of the Krein Report) comes from the WKNS.¹ This is unsupported, what the Krein Report claims as top level digest topics unique to only the WKNS, is actually simply the articulation of the technical language of the law. The top-level topics of the WKNS are identical to historical sources predating the WKNS and are identical to the names of causes of actions, areas of law, or even law school courses. In sum, it is not "very clear" at all that the LPO Classification topic names came from the WKNS, or, in any case, that they are unique to the WKNS.

¹ Krein Report, ¶ 113.

7. The language used in the WKNS system is the technical language of the law. Lawyers and judges use the language to teach, discuss, argue, and settle points of law. For example, when discussing a last will and testament with a client, a lawyer will use the term “will.”

8. In the same way, when a person wants to sell their car to another person, they will agree to a purchase price and terms of the sale and will call the transaction a “contract.” Disagreements or negotiations about terms will always be referred to in roughly the same way: offer, acceptance, performance, breach. There is no other way the parties and their representatives can clearly communicate about a transaction. This is because the law has developed a specific language that describes this type of relationship.

9. The language used by attorneys to analyze and discuss the law necessarily is the language used by courts, statutes, schools, and scholars. Accordingly, it would not be logical for attorneys to use language that is different from the language used by courts, statutes, schools, or scholars. For example, an attorney arguing that their client has not committed arson would need to describe the elements of arson, and use the terms of art relevant to “arson.” Similarly, some of the “WKNS topics,” “Libel and Slander,” “Negligence,” or “Malicious Prosecution,” are the names of various tort causes of actions. Common sense dictates that an organizational scheme would use the names of these causes of actions, rather than organizing them under an absurd naming convention (i.e., referring to “Libel and Slander” as the “cause of action related to the saying or writing of false statement about another”).

10. The language of law is ancient and has been used since the origin of the Common Law. The earliest reporters captured the decisions of the courts as judges settled questions of law among parties. When parties disagreed about the performance of a contract, lawyers would present evidence to the court about how/if a contract was formed, how/whether the contract was

“legal” or “legally performed.” When a judge heard the evidence presented about a transaction, their decision would use generally understood language to discuss whether the elements of a legitimate contract existed. The language used was common and generally understood. The opinions and decisions of the court had to use this language so the parties understood their responsibilities and obligations.

11. During this early period, the decisions of the court were collected and published by reporters. This was done for three reasons. First, they were collected for accountability in order to preserve the rules expounded by the judges so that citizens and lawyers could consistently rely on the rules. Second, they were preserved so that lawyers and people could learn the law and understand their rights. Finally, they were gathered and published in a format that facilitated discovery and research.

12. As the volume of reported judicial decisions grew, reporters also created indexes and digests that facilitated research. Around the same time, scholars and experts in the law also began to write treatises describing people’s/citizen’s rights under the law. It is difficult to locate some of the earliest digests and treatises, so it is nearly impossible to say with any certainty exactly when was the first occurrence of any particular legal term, but a cursory survey of old common law digests and treatises demonstrates that all fundamental legal terms existed in the common law from the earliest times of the common law.

13. Below is a chart that illustrates the common terms used in the digesting of case law. Sir John Comyns’ *Digest of the Laws of England* (“Comyns’ *Digest*”)² and John Mews’ *Digest of English Case Law Contain the Reported Decision of the Superior Courts, and a Selection from Those if the Irish Courts*³ and are two examples of independent digesting systems

² Sir John Comyns’ *A Digest of the Laws of England* (5th ed. 1822) (“Comyns’ *Digest*”).

³ John Mews’ *Digest of English Case Law Contain the Reported Decision of the Superior Courts, and a Selection from Those if the Irish Courts* (1898) (“Mews’ *Digest*”).

that existed independently of the WKNS (and in the case of the Comyns' *Digest* **predated** the WKNS by eight decades),⁴ but share, naturally, many of the same topics that West claims to be original and creative.⁵ As can be seen in this chart, an overwhelming majority of the "West Key Number Digest Topic as shown in TR-0179847-0179854" are identical to historical sources predating the WKNS.

West Key Number System Digest Topic as shown in TR-0179847-TR-0179854*	Comyns' Digest (1822)	Mews' Digest (1898)
Abatement and Revival	Abatement	Abatement
Account	Account, stated	X
Action	Action	Action
Administrative Law and Procedure	X	X
Admiralty	Admiralty	Admiralty
Adulteration	X	Adulteration
Adverse Possession	X	Adverse Possession
Affidavits	Affidavit	Affidavits
Agriculture	X	X
Aliens, Immigration, and Citizenship	Alien	Alien
Alternative Dispute Resolution	X	X
Ambassadors and Consuls	Ambassador	Consul
Amicus Curiae	X	X
Appeal and Error	Appeal	Appeal, Error
Armed Services	Army	Army and Navy
Arson	Arson	Arson and Burning
Assignments	Assignment	Assignments

⁴ West first debuted WKNS, its classification system the *Century Edition of the American Digest: A Complete Digest of All Reported American Cases from the Earliest Times to 1896* (1897). Opening Report, ¶¶ 20-22 and accompanying notes.

⁵ Krein Report, ¶ 113; *Id.*, chart at p. 58-60.

Bailment	Bailment	Bailment
Banks and Banking	X	Banker and Banking Company
Bills and Notes	Bill	Bills and Notes
Bribery	Bribery	Bribery
Burglary	Burglary	Burglary
Charities	Charitable Use	Charity
Child Custody	X	Custody of Children
Clerks of Court	Clerk	Clerk of the Peace
Commodity Futures Trading Regulations	X	X
Consumer Credit	X	X
Convicts	X	X
Creditor Remedies	Creditor	Creditor Suits
Customs and Usage	Custom	Custom
Disorderly Conduct	X	Disorderly House
Domicile	Domicil	Domicil
Double Jeopardy	X	X
Education	X	Education
Electricity	X	Electric Lighting
Embezzlement	X	Embezzlement
Eminent Domain	X	X
Environmental Law	X	X
Estoppel	Estoppel	Estoppel
Exchange of Property	Exchange	Exchange of Estates
Extortion	Extortion	Extortion
Fines	Fines	Fines
Forgery	Forgery	Forgery
Franchises	Franchises	Franchise
Good Will	X	Goodwill
Guaranty	Garranty	Guarantee and Indemnity
Highways	High-way	Highway
Homicide	Homicide	Homicide
Incest	X	X
Indians	X	X

Injunction	Injunction	Injunction
Inspection	Inspection	Inspection
Insurance	Insurance	Insurance
International Law	X	International Law
Kidnapping	X	X
Labor and Employment	Master-Servant	Work and Labour
Landlord and Tenant	Landlord Tenant	Landlord and Tenant
Libel and Slander	Libel	Libel, Slander
Life Estate	Life, Tenant for	Life, Estate for
Malicious Prosecution	X	Malicious Procedure and False Imprisonment, Malicious Inquiry
Marriage and Cohabitation	Marriage	Marriage
Mines and Minerals	Mines	Mines and Minerals
Monopolies	Monopoly	Monopoly
Negligence	Negligence	Negligence
Neutrality Laws	X	Neutrality
Notice	Notice	Notice
Novation	X	X
Pardon and Parole	Pardon	Pardon
Partnership	Partnership	Partnership
Pension	Pensions	Pension and Pay
Pleading	Plea	Pleading
Pretrial Procedure	X	X
Principal Agent	Principal and Agent	Principal and Agent
Privileged Communications and Confidentiality	Privilege	Privileged Communications
Products Liability	X	X
Property	Property	X
Public Utilities	X	X
Secured Transaction	X	Secured Creditor
Sex Offenses	Rape	X
Subrogation	X	X
Suicide	X	Suicide

Taxation	Taxes	Taxation of Costs Taxes
Threats, Stalking, Harassment	X	Threats and Threatening Letters
Treason	Treason	Treason
Trespass	Trespass	Trespass
Vagrancy	Vagabonds or Vagrants	Vagrant
Venue	Venue	Venue
Weights and Measures	Weights and Measures	Weights and Measures
Woods and Forests	Woods	Woods and Forests Commissioners
Workers' Compensation	X	X
Zoning and Planning	X	X

14. Another significant fact is that the topics covered in each digest will reflect the times and the language of the times. For example, WKNS lists a topic called “Commodity Futures Trading Regulations.” The Commodity Exchange Act was not enacted until 1936.⁶ A top-level topic relating to commodity trading regulations would not be created until after 1936—and more likely, creation of this topic would not make sense until there was a significant corpus of judicial opinions relating to this topic, such that having this top-level topic would make sense. This is obviously not a topic that would exist in the Common Law during the early development of the common law when the Comyns’ *Digest* and Mews’ *Digest* were written. Similarly, a topic like Environmental Law did not exist as we know it today and simply is not in the Comyns’ *Digest* or Mews’ *Digest* because the issues covered by this legal topic simply were not at issue in the Eighteenth or Nineteenth Centuries. For example, the Environmental Protection Agency was created in the 1970s,⁷ signifying that issues relating to the environment, and by extension, environmental law, were becoming more prevalent. The “Environmental Law” top-level topic

⁶ COMMODITY FUTURES TRADING COMMISSION, <https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm> (last visited Sep.2, 2022).

⁷ *The Origins of the EPA*, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/history/origins-epa> (last accessed Sep. 2, 2022).

did not appear in the WKNS until 2002⁸, likely coinciding with the time when the corpus of judicial opinions relating to environmental law grew to sufficient size to merit top-level topic treatment. Another example about the origin of legal terms is “Administrative Law.” At the turn of the Twentieth Century the study of governmental action and administration was just emerging. As a discreet topic, the issues that we would now consider relevant to this topic were variously treated in related subjects of constitutional law, jurisdiction and legislation. The First Decennial Edition of the *American Digest*, published in 1908 does not yet include the topic.⁹ Professor Frank Goodnow, of Columbia University is credited with inventing the term, “administrative law,” which was picked up by his student, Professor Ernst Freund, who, as a scholar, expanded the topic and wrote one of the first text books on the subject.¹⁰

15. Moreover, the law is not static and evolves over time. In addition, the language also changes as our civilization matures. For example, the Comyns’ *Digest*’ uses a term, “Chimin” for extensive coverage in the *Digest* for cases related to public roads. This is an old French legal term for “highways.”¹¹ West, of course, uses the English term, “highways” as a topic. There are many examples where the old digest terms have been modernized in the WKNS.¹²

16. This is not to say that the language of the law was universal and uniform in every detail. Lawyers throughout the centuries have struggled with the challenge of developing a standard indexing tool to make finding cases efficient and direct. The Comyns’ *Digest* and

⁸ Opening Report, Exs. 4, 5.

⁹ *Id.*; West Publishing Co., *Decennial Edition of the American Digest: A Complete Digest of All Reported Cases from 1897 to 1906* (1908).

¹⁰ Editors, *Ernest Freund – Pioneer of Administrative Law*, 29 U. CHICAGO LAW REV. 755, 755-56 (1961).

¹¹ John Bouvier, “Chimin,” *A Law Dictionary Adapted to the Constitution and Laws of the United States of American and of the Several States of the American Union* (6th ed. 1856) (“CHIMIN. This is a corruption of the French word chemin, a highway.”).

¹² Opening Report, ¶¶ 34-38 and accompanying notes.

Mews' *Digest*, mentioned above, are two examples of many attempts to index the common law as described in the courts. There are many sources that describe the challenges as the volume of case law grew, particularly after the successful development by West Publishing of the first *comprehensive case reporting service*, the National Reporter System. The creation of the National Reporting System ushered in a new era of case law reporting by publishing every decision rendered by the courts, including cases that had no official reporter, such as the decisions of the Federal district and circuit courts. In the late Nineteenth Century, when West Publishing was founded, as the population grew, so, too, naturally did litigation and the need for a comprehensive index to give lawyers and researchers access to the laws as elucidated by the courts in their written decisions. As described in my Opening Report, West recognized the need for such an index and found one in the Abbott's *United States Digest*, which they adapted and updated and applied to the new cases that were being published in the National Reporter System.¹³

17. In addition to the Digests, there is substantial evidence that the topics Krein references are reflected in the curriculum of law schools throughout the nation. For example, the catalogs of some early law schools naturally describe the course of study for law students using common legal terms such as, "Admiralty," "Maritime," "Agency," "Partnership," "Sales," etc., terms which are also referenced in the WKNS topics.¹⁴ Another example can be found in the course catalog for Cumberland University from 1849, nearly a half century before West published the *Century Digest* with the WKNS.¹⁵ As described in the course catalog many of the

¹³ *Id.*, ¶¶ 10, 16-19 and accompanying notes.

¹⁴ Charles Folsom, *A Catalogue of the Faculty and Students of the Law School in Harvard University for the Second Term of the Academical [sic] Year 1842-43*, HARVARD LAW SCHOOL at 9 (1842) [https://iif.lib.harvard.edu/manifests/view/drs:8866717\\$13i](https://iif.lib.harvard.edu/manifests/view/drs:8866717$13i) (last visited Aug. 31, 2022).

¹⁵ J. T. Figures, *A Catalogue of the Law School of Cumberland University at Lebanon Tennessee for the Academical [sic] Year 1848-49*, CUMBERLAND UNIVERSITY LAW SCHOOL at 4 (1848) https://upload.wikimedia.org/wikipedia/commons/8/8d/Catalogue_of_the_Law_School_of_Cumberland_University%2C_1848-1849_%28IA_184849L%29.pdf (last visited Aug. 31, 2022).

subjects listed as areas of focus for students are implied in the book titles to be studied:

Greenleaf on Evidence, Chitty on Contracts, Angell and Ames on Corporations, Long on Sales, Story on Agency, and Stephen on Pleading, to name a few.¹⁶ Clearly the terms of the digest are not “original,” but used the common language of the law. How else can one describe or teach the law of contracts, except by using the term, “contracts?” This topic is used in every digest examined for this report, and in every law school catalog. Today, law schools, such as Nebraska College of Law offer courses entitled “Administrative Law,” “Alternative Dispute Resolution,” “Environmental Law,” “International Law,” “Secured Transaction,” and “Workers’ Compensation Law” all course names identical to the WKNS topics.¹⁷

18. The most comprehensive description of the development of the resulting indexing tool can be found in the fourth edition of West’s *American Digest Main Heads and Subdivisions of Classification Scheme; A Logical Analysis of the Law for the Use of Indexers and Digest Makers*, published in 1904.¹⁸ The authors describe in detail the need for a comprehensive index and the process used to acquire and adapt the system to their own publication of cases. But their purpose was beyond simply indexing their own publications. In their own words, they recognized that the classification system had a near universal benefit to the practice of law, and offered it to indexers and digesters from any source.

19. The introductory section of *American Digest Main Heads*, titled “Prospectus,” lays out a detailed explanation for the need for a standard, uniform system for digesting case law, and details the efforts that West made to the American Bar Association in 1899 that resulted in

¹⁶ *Id.*

¹⁷ *Full Course Listing*, NEBRASKA COLLEGE OF LAW <https://law.unl.edu/full-course-listing/> (last visited Sep. 2, 2022).

¹⁸ West Publishing Co., *American Digest Main Heads and Subdivisions of Classification Scheme; A Logical Analysis of the Law for the Use of Indexers and Digest Makers* (4th ed. 1904) (“*American Digest Main Heads*”).

the association giving its approval of the West system as a standard and encouraged all digesters and indexers to use the system as a standard:

The general adoption, by other editors and publishers, of the “American Digest classification scheme” has been a very interesting and significant development of the last two or three years. The lack of uniformity in digesting has long been recognized as an evil, entailing the unnecessary work and perplexity on the bar. The American Bar Association, for several years, had special reports prepared, pointing out the serious nature of this accepted inconvenience, and in its report for 1900 it offered the practical suggestion that the classification worked out so carefully for the American and Century Digests, and already familiar to the bar and approved by use, should be taken as the basis of law digesting throughout the country.

Although the elaboration of this analysis had cost us at least \$20,000, we felt that the importance to the bar of establishing a standard and uniform classification was so great that we should not be justified in withholding our assistance from any consideration merely of our proprietary rights. We therefore met the suggestion made by the American Bar Association by placing the scope-note pamphlet giving the outlines of our classification scheme in the hands of any editor who might desire to make use of it. We have had over a hundred requests for it, and it has been formally adopted by Lawyers’ Co-operative Publishing Co. and by the Bancroft-Whitney Co. for use in the digests to be hereafter published by them. It has been followed, with credit duly given, in a number of late State Digests, and has been taken as a basis for the indexes of the current State Reports in a number of states. This wide-spread use will tend rapidly to establish this system as the standard in this country,-- a position which its intrinsic excellence well deserves.¹⁹

The purpose of publishing the *American Digest Main Heads and Subdivisions of Classification Scheme; A Logical Analysis of the Law for the Use of Indexers and Digest Makers*, as its subtitle makes clear was to share the system with “any editor who might desire to make use of it.”

20. In conclusion, two things are clear from my research. First, the claim that West’s topics and key numbers are original is false. The topic terms are based upon ancient tradition and logical, standard language of the law, and can be seen in the early digests, the language of the law itself, legal scholarship, too, reveals many legal terms in common usage. Second, the

¹⁹ West Publishing Co., “Prospectus,” *American Digest Main Heads* at 21.

need for a rigorous standard classification system was universally recognized and developed in the United States originally by the Abbott brothers and then adopted by West Publishing as their case-publication service, the National Reporter System, became prominent. At the same time, West promoted the American Digest System as a standard one to be used by any and all publishers in order to facilitate the work of lawyers, scholars, and all legal researchers.

Executed at Lincoln, Nebraska, on this 6th day of September, 2022.



Professor Richard A. Leiter

EXHIBIT 1

Richard A. Leiter
1301 North 37th Street
Lincoln, NE 68503
rleiter@unl.edu - 402-472-5737

EXPERIENCE

SCHMID LAW LIBRARY, UNIVERSITY OF NEBRASKA – LINCOLN COLLEGE OF LAW

Lincoln, Nebraska

Director of the Law Library and Professor of Law (2000 -)

Tenured. Responsible for the overall management and development of the law library faculty (4) and staff (8), programs, resources, budget and planning. Teach first year and advanced legal research. Law Library has collection of nearly 360,000 and budget of about \$1.3 million. Responsible for programming and design of 20,000 sq ft law library addition and renovation, 2000. Second renovation presently underway that involves two of three floors.

– *Fall 2011, Visiting Academic Research Fellow, Harvard Law School Library, Library Innovation Lab. On sabbatical leave from UNL.*

ALLEN MERCER DANIEL LAW LIBRARY, HOWARD UNIVERSITY SCHOOL OF LAW

Washington, District of Columbia

Associate Dean for Information Systems Technology

Director of the Law Library and Professor of Law (1994 - 2000; Assoc. Dean 1998 - 2000)
Promoted with tenure in 1999. Responsible for the overall management and development of law school computing resources, the law library professional (7) and classified staff (11), teaching advanced legal research, and long range planning. Law Library has a collection of approximately 300,000 and budget of \$1.9M. Programmed and designed 70,000 sq ft law library facility.

REGENT UNIVERSITY SCHOOL OF LAW, LAW LIBRARY

Virginia Beach, Virginia

Director of the Law Library and Associate Professor of Law (1991-1994)

Responsible for the overall management and development of the law library faculty (5) and staff (6.5), programs, budget and long range planning and teaching first-year and advanced legal research. Law Library has a collection of 280,000 volumes. Programmed, designed and supervised construction of 35,000 sq ft law library facility. Supervised move into new facility.

LITTLER, MENDELSON, FASTIFF & TICHY

San Francisco, California

Head Librarian (1988-91)

Responsible for all aspects of library service for law firm of 190 attorneys in 11 offices around the country. Administered budget of over \$700,000 per year. Planned and implemented automated library systems, planned training program for new attorneys, summer associates, paralegals, and secretaries. Member, marketing committee, library committee. Responsible for professional staff of two and four FTE library clerks. Programmed and designed new law library facility.

UNIVERSITY OF NEBRASKA COLLEGE OF LAW LIBRARY

Lincoln, Nebraska

Public Services Librarian (1986-88)

Responsible for all aspects of public service, including redesign of circulation system, inter-library loan program, reserve room policy, exhibit program, reference and computer lab. Wrote library user's manual. Responsible for two-and-a-half full time professionals and paraprofessionals and 12 student desk attendants.

UNIVERSITY OF TEXAS, TARLTON LAW LIBRARY

Austin, Texas

Head of Reference (1986) Reference Librarian (1984-86)

Responsible for supervision of the reference staff, including scheduling and professional continuing education. Also responsible for maintaining bulletin boards, information counters, reference policies and CALR training for a faculty of 100 and a first year class of 500. Faculty advisor, Phi Alpha Delta.

HOPKINS, MITCHELL & CARLEY

San Jose, California

Managing Librarian (1983-84)

Responsible for library: organizing, revitalizing and cataloging library collection. Planned new acquisition strategy, budget and layout of library.

IRELL & MANELLA

Los Angeles, California

Legal Research Aide (1977-78)

General library research and reference; extensive out-of-office research and contact with a wide variety of libraries and administrative agencies in the Los Angeles area.

THE HONORABLE DAVID W. WILLIAMS

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

Los Angeles, California

Law Clerk-Crier (Externship) (1980)

Drafted memoranda analyzing and making recommendations for rulings on motions; speech writing; bench memo for Ninth Circuit Court of Appeals.

UNIVERSITAS ANDALAS (Professional University) & IKIP (Teacher Training College)

Padang, West Sumatra, Indonesia

English Instructor (1976-77)

Planned and implemented English courses for college students and faculty. This was a volunteer position under auspices of *Volunteers in Asia (VIA)*, Stanford, CA.

EDUCATION

Library Science

UNIVERSITY OF TEXAS

Austin, Texas - M.L.I.S., 1986

Law School

SOUTHWESTERN UNIVERSITY SCHOOL OF LAW

Los Angeles, California - J.D., 1981

- * Law Review: Editor 1980-81; member 1979-80
- * Dean's scholarship 1980-81
- * Computer Law Journal: Editor 1978
- * The Commentator (school newspaper): Editor 1980-81; staff writer 1979-80
- * Phi Alpha Delta: Vice-Justice 1980-81; member 1978-80
- * The Advocate (yearbook): Editor 1981
- * Graduation Committee 1980-81
- * Certificate of Distinguished Service 1981

Undergraduate

UNIVERSITY OF CALIFORNIA, SANTA CRUZ

Santa Cruz, California - B.A., 1976

Double major, Anthropology and Religious Studies.

- * Honors: Graduated with Honors in Religious Studies and received Honors on thesis in Anthropology

SOUTHERN OREGON COLLEGE

Ashland, Oregon, 1971-72

- * Honors: Dean's List

Awards and Honors:

Frederick Charles Hicks Award, Recipient, 2020. Awarded by the Academic Law Libraries Section of the American Association of Law Libraries for "Outstanding Contributions to Academic Law Librarianship."

Jospeh L. Andrews Bibliographical Award, Recipient, 2003. For National Survey of State Laws, Sixth Edition. Awarded by American Association of Law Libraries. Awarded to recognize significant contributions to legal bibliographical literature.

Kenneth L. Hirsh Award for Distinguished Service, Recipient, 2010. Awarded by American Association of Law Libraries for distinguished service to the library community by furthering awareness of computing services in law libraries.

Depository Library Council, Appointment 2021. Three year appointment. Appointed to the Working Group on the Feasibility of an All-Digital Depository Library Program.

PUBLICATIONS

Books

National Survey of State Laws, Ninth Edition *in process* (Buffalo: Hein 2022)

National Survey of State Laws, Eighth Edition (Buffalo: Hein 2019)

Seventh Edition (Buffalo: Hein 2015)

*Winner 2003 Joseph L Andrews Bibliographical Award (AALL)

Sixth Edition, Editor (Detroit: The Gale Group, 2008)

Fifth Edition, Editor (Detroit: Thomson-Gale, Inc. 2005)

Fourth Edition, Editor (Detroit: Thomson-Gale, Inc. 2003)

Third Edition, Editor (Detroit: The Gale Group, Inc., 1999)

Second Edition, Editor (Detroit: Gale, Inc., 1997)

First Edition, Editor (Detroit: Gale Research, Inc., 1993)

Landmark Supreme Court Cases, Third Edition (Facts on File 2017) *eBook*

Landmark Supreme Court Cases, Second Edition, with Roy Mersky (Facts on File 2011).

The Spirit of Law Librarianship, Second Edition. Co-Editor with Prof. Roy Mersky (Chicago: Alert Publications, Inc., 2004).

Concordance of Federal Legislation, with A. White (Buffalo, NY: Wm. S. Hein & Co., Inc. 1998).

Introduction: (Booklet) The Principles of Natural Law and The Principles of Politic Law by J.J. Burlamaqui, 1748, 1752. Reprint by Legal Classics, Gryphon Editions, 1994.

The Spirit of Law Librarianship: A Reader, Co-Editor with Prof. Roy Mersky (Littleton, CO: Fred B. Rothman & Co., 1991).

Steering Committee Member, Section Editor, and Contributor, Yellow Pads to Computers, First and Second Editions (Chicago: American Bar Association, 1987, 1991).

Faculty Writings: The University of Texas School of Law, No. 31, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1986).

New Frontiers in Forensic and Demonstrative Evidence, No. 24, Tarlton Legal Bibliography Series (Austin, TX: University of Texas Tarlton Law Library, 1985).

Articles/Contributions

“Law Librarians’ Roles in Modern Law Libraries,” chapter in Academic Law Library Director Perspectives, edited by Michelle M. Wu (Buffalo, NY: Wm. S. Hein & Co., Inc. 2015)

“Tools of Our Trade,” AALL Spectrum Sept/Oct 37 (2013)

“Much Ado about Authentication,” 23 Trends in Law Library Management and Technology 2 (2013)

“Publication in the Digital Age,” 31:3 The Catchline 10 (Nov-Dec 2012)

"Who Gets to be the Expert? Legal Research Skills Certification in Legal Education," 28 Legal Reference Services Quarterly 271 (2009)

"Reflections on Ranganathan's Five Laws of Library Science," 95:3 Law Library Journal 411 (Summer 2003).

"Reflections on the Art of Mentoring," 14:3 Trends in Law Library Management and Technology (2004).

"The Use of Law Reviews in Modern Legal Research: The Computer Didn't Make Me Do It!" 90:1 Law Library Journal 59 (Winter 1998).

"Finally, Handheld Computers Have Come of Age," National Law Journal, page C4, July 1, 1996.

"PDA's: Not Just Toys Any More," Legal Assistant Today, July 1996.

"PDA: The Promise of Technology," Legal Information Alert, April/May 1996.

"Assault of the Citadel: Romancing the Crown Jewels of West Publishing," 14:1 Legal Information Alert, page 1, January 1995.

"Do You Need a Library?" Chapter 1, Planning The Small Law Office Library, Ed. Catherine Pennington. (Chicago: American Bar Association. 1994.

"FREESTYLE by Lexis: A Natural Development." 13:2 Legal Information Alert 1 (February 1994).

"WIN: 'It's the Natural Way'." 11: 6 Legal Information Alert 1 (November/December 1992).

Product Review: "Can Your Firm WIN With New Search Approach?" Vol. x, No. 9 Leader's Legal Tech Newsletter page 1 (December 1992).

"Navigating the Haystack: Legal Research Tips You Can Use," 8:6 Legal Assistant Today 52 (July/August 1991).

"What's New In On-Line Legal Databases," Law Office Computing 107 (Summer 1991).

"The Myth and Magic of Computer-Assisted Legal Research," 11:2 California Lawyer 57 (1991).

"The Collier Bankruptcy Law Library on CD-ROM" (with Leslie Ann Forrester Sherren), 10: 6 Legal Information Alert 1 (June 1991).

"Research Instruction for Partners, Associates & Summer Associates," Paper presented at Conference on Teaching Legal Research in Private Law Firm libraries sponsored by Mead Data Central, held April 1990 in Washington, D.C. Papers presented at the conference were compiled and published in Proceedings of the Conference on Teaching Legal Research in Private Law Firm Libraries (Littleton, CO: Fred B. Rothman & Co., 1991).

"The Developments in the Practice of Law and Their Influence on the Enterprise of Law Publishing," essay for the Symposium of Law Publishers, special issue, Legal Reference Services

Quarterly, (29 Numbers 3/4 1991). Also published as a monograph by Howorth Press, Symposium of Law Publishers, Thomas A. Woxland, Editor. (NY: Haworth Press, Inc., 1991).

"The Future of CALR in Law Firms," 2:2 Trends in Law Library Management and Technology 1 (1988).

"A History of Legal Periodical Indexing," 7 Legal Reference Services Quarterly 35 (1987).

Note, "The 'New' Supervisory Power and Judicial Impotency: The Loophole in the Fourth Amendment," 12 Sw. U.L. Rev. 449 (1981).

Miscellaneous

Depository Library Council, member. Three year term, 2021-2024. Advisory committee of the Government Publishing Office.

Task Force to Consider an All Digital GPO, 2022

FastCase 50 honoree, 2014. For recognition as a library innovator.

Leader, Law Library Tour of China. People to People. Fall, 2008.

Podcast, "Law Librarian Conversations." Broadcasts on the 3d Friday of the month. Available for downloads on iTunes and lawlibcon.classcater.net. Average numbers of listeners is about 550. Ran for 10 years.

Consultant, Liberty University School of Law, Lynchburg, VA. Hired to plan law library for planned law school. Responsible for strategic planning, hiring of initial staff, selecting collection, negotiating with vendors and planning layout of the library, 2003 – present.

Consultant, Handong University, Korea. Hired to help plan and build an American Law Library for a planned law school, 2001-2002.

Columnist, "Legal Research Tips," bi-monthly column for Legal Assistant Today, 1991-1999.

Columnist, "Database News," monthly column for Legal Information Alert, 1993- present.

Columnist, "Law Library Hi-Tech," monthly column for the Monthly Newsletter of the American Association of Law Libraries 1990-1993 (term expired).

Interview, Legal Line (Column): "What's Wrong with CD-ROM?" Cary Griffith, Information Today, page 16, July/August 1992. (My views on CD-ROM were the topic of this column for which I was interviewed extensively by Mr. Griffith.)

Profile, "Library is Guided by Three Principles," appeared in California Law Business (supplement to The Daily Journal), June 11, 1990.

Various editorials, Automatome, The Newsletter of the Automation and Scientific Development Special Interest Section of AALL, 1986-1989.

Moderator and Panelist. "Law Firms and Legal Research." a roundtable discussion on the legal research skills training of law students and new associates. A transcript was published in a special Legal Research Supplement to the January 26, 1990 issue of The Recorder, a San Francisco legal newspaper and host of the panel discussion.

Various book reviews, American Reference Books Annual, 1986-present,

Various book reviews, Legal Information Alert, 1982- present.

MEMBERSHIPS

American Bar Association (ABA), 1984 - present; American Association of Law Libraries (AALL), 1982 - present; Association of American Law Schools (AALS) 1991 - present; Mid America Association of Law Libraries (MAALL) 2000 - present; American Library Association (ALA), 1984 - present; Nebraska Library Association (NLA), 2015 - present; SCRIBES, American Society of Writers on Legal Subjects, 1994 - present; Big Ten Law Library Alliance, steering committee (BTLLA) 2013 - .

Committees:

*** AALL -**

Automation and Scientific Development (now Computer Services) Special Interest Section:
Newsletter (Automatome) Editor, 1986-89; Chair, 1989-90;
Member, 1985-

Awards Committee, member, 2007- 2010, 2020-2023.

Government Relations Committee, 2014-2017; Chair, 2016

Indexing Legal Periodicals Advisory Committee, member, 1989-92 (three-year term;
Chair, 1990, 1991

Law Library Journal/Spectrum Editorial Advisory Committee, 2004-2007 (three-year term;
Chair, 2005, 2006)

Publications Committee, member, 1987;

Research Committee, 1997–1999 (three-year term), Chair 1998-1999.

Recruitment Committee, member, 1994-1997 (three-year term)

Special Committee to Promote the Development of Resources for the Legal Information Community. 1994-1995. (Committee finished its charge.)

*** AALS**

Chair, Law Libraries and Legal Information Section, 2021

*** MAALL-**

President, 2011.

Member Board of Directors, Mid America Law Library Consortium (MALLCO), 2000-present.

*** ABA -**

Library Committee, Economics of Law Practice Section (ABA): Vice Chair, 1986-88;
Member, 1986 - present;

Videotape Equipment Utilization Committee, Economics of Law Practice Section (ABA), Chair,
1988-90.

Section on Legal Education and Admission to the Bar, various site inspection teams, see
“Service Activities” section, below.

*** NLA**

Intellectual Freedom Roundtable, 2016 - .

PROFESSIONAL ACTIVITIES

Presenter, "Taking the Fright out of Copyright," Annual meeting, Nebraska Library Association Annual Meeting, 2017

"Getting Real Law: Navigating the Internet for Reliable Sources of Law and Legal Materials," Annual meeting, Nebraska Library Association Annual Meeting, 2017

Various presentations at Doane College, Crete and Nebraska Wesleyan University to faculty on topic of copyright and classroom materials.

Presenter, "The Art of Social Networking in Law Libraries," Annual Conference of Ninth Circuit Branch Librarians, May 2010, Tucson, AZ.

Leader, "Legal Research and Legal Science Professional Delegation to China." Lead People to People Citizen Ambassador delegation to Beijing and China. The delegation visited four universities with law schools, two law publishing companies and the Shanghai Public Library in a span of eleven days. October 24 – November 3, 2008.

Presenter, "ABA Questionnaire: New and Improved or...." Panelist, responder.
"Budgeting in a Recession; Or, Getting Blood for Turnips." Speaker.

Presenter, "Teaching the Teachers," Fall 2007, University of Texas School of Law. Panelist on Teaching Legal Research.

Presenter, "Where's My Jet Pack?" program at MAALL Annual Meeting, Fall 2005, Grand Forks, ND.

Co-creator and presenter, Legal Research for Non Law Librarians. Half-day seminars presented to general academic, public, school and prison librarians. Some programs have been offered under the auspices of the Nebraska Library commission, some have been offered directly to interested groups. Program was presented four times in its first year, including in remote locations around the state.

Presenter, Law College's Estate and Gift Trust CLE program, 2001, 2002, 2003.

Faculty, Law Librarian's Society of the District of Columbia, Research Instruction Program, 1995, 1996, 1998.

Presenter, "Issues Confronting the Modern American Law School Library," Legal Information Seminar (for Russian legal educators), International Law Institute, October 7-25, 1996, Howard University School of Law.

Coordinator, "Managing the 'New' CALR in Law Libraries," AALL Annual Meeting Program, Indianapolis, IN, 1996.

Faculty, "Legal Looseleaf Services," LLSDC, Education Committee's Legal Research Institute, 1995, 1996.

Presenter, "Online Live! Natural Language," Online '94/CD-ROM Conference and Exposition, San Francisco, CA, October 1994.

Panelist, "Religious Educational Institutions: Law Library Hiring Practices in a Changing Environment," AALL Annual Meeting, Seattle, WA, 1994.

Westlaw Advisory Board; member, 1990-1993; 2008–present (three-year term)

Advisory Board, Oceana Publications, Inc., 1993-2000.

Participant (by invitation only), "The McCrate Report: Where Do We Go From Here?" Sponsored by the American Bar Association, University of Minnesota Law School, and West Publishing Company. September 30 - October 2, 1993.

Participant, CALI/LEAP, Conference for Law School Computing Professionals, Chicago-Kent College of Law, Chicago, IL, June 1993.

Participant (by invitation only), "Canadian Law & Legal Literature," Biennial conference sponsored by Duke University Law Library and the Duke University Canadian Studies Center.

"Access to Legal Information in a Multilingual Culture," March 1992;

"Canada and the World," March 1994.

Faculty, "Hot Topics in Employment Law," Managing the Private Law Library 1991: Management Challenges, New Technology, and Planning for the 1990s, Practising Law Institute, San Francisco, CA 1991.

Faculty Member, "Survey of Spreadsheets and Other Computer Applications in Financial Planning," AALL Pre-conference: Institute on Financial Management of Law Libraries," St. Paul, MN, 1990.

Coordinator and Moderator, "The Modern Law School Computer Lab: The Evolution of the Typing Room in the Age of Technology," AALL Annual Meeting, Minneapolis, MN 1990.

Faculty Member, "Teaching Legal Research to Legal Secretaries," AALL Pre-conference "Institute on Teaching Legal Research," Sacramento, CA, 1989.

Co-Director and Faculty Member, AALL Pre-conference "Workshop on the Fundamentals of Microcomputers," Reno, Nevada, 1989.

Coordinator and Moderator, "Micros to Mainframes: Annual Software, Hardware, and Applications Update," 1987, 1988, 1989.

Speaker, Panelist, "Organizing Your Law Library," ABA Annual Meeting, Toronto, 1988.

COMMUNITY/SERVICE ACTIVITIES

Member, Site Inspection Team, ABA Accreditation Committee:
University of Arkansas School of Law, 2000, 2013
University of Montana School of Law, 2001, 2017
University of Indiana, Indianapolis, School of Law, 2003
New York Law School, NYC, 2004
Michigan State University, School of Law, Spring 2007
West Virginia University, School of Law, Winter 2009
Thomas Cooley Law School, Spring 2011
University of Oklahoma, Fall 2016
University of Arizona, 2019

Member, University of Nebraska Faculty Senate Library Committee, 2000-present.

Senator, University of Nebraska Faculty Senate, 2002–present (three-year term); reelected, 2005; Member Executive Committee, 2016 - ;

Member, Faculty Senate Information Technology and Services Committee, 2012 - ; Chair, 2015-2017, 2020-

Member, Faculty Senate Parking Advisory Committee. I have served on this committee for many years and served as chair at least twice.

Chair, Committee on Committees, University of Nebraska Faculty Senate, 2008. One year term. Member, 2007–present.

Member, Committee on Committees, University of Nebraska College of Law, 2008–present.

Coordinator, Food Net distribution center, St John's Orthodox Church, Lincoln. FoodNet coordinates the distribution to the poor, extra food from local food retailers and producers. The center I coordinate distributes food weekly.

EXHIBIT 2

EXHIBIT 2

Materials Considered in Support of Rebuttal Report

Case Documents

- Opening Expert Report of Dr. Jonathan L. Krein and exhibits attached thereto
- Plaintiffs' Second Supplemental Responses and Objections to ROSS Interrogatory No. 1, dated March 23, 2022
- Plaintiffs' Third Supplemental Responses and Objections to ROSS Interrogatory No. 1, dated August 22, 2022
- TR-0179847
- ROSS-010128683

EXHIBIT D

West Key Number System®

Numerical List of Digest Topics

1	Abandoned and Lost Property	31	Appearance	70	Carriers
2	Abatement and Revival	34	Armed Services	71	Cemeteries
4	Abortion and Birth Control	35	Arrest	72	Census
5	Absentees	36	Arson	73	Certiorari
6	Abstracts of Title	37	Assault and Battery	74	Champerly and Maintenance
7	Accession	38	Assignments	75	Charities
8	Accord and Satisfaction	40	Assistance, Writ of	76	Chattel Mortgages
9	Account	41	Associations	76A	Chemical Dependents
10	Account, Action on	42	Assumpsit, Action of	76D	Child Custody
11	Account Stated	43	Asylums and Assisted Living Facilities	76E	Child Support
11A	Accountants	44	Attachment	76H	Children Out-of-Wedlock
12	Acknowledgment	45	Attorney and Client	78	Civil Rights
13	Action	46	Attorney General	79	Clerks of Courts
14	Action on the Case	47	Auctions and Auctioneers	80	Clubs
15	Adjoining Landowners	48	Audita Querela	81	Colleges and Universities
15A	Administrative Law and Procedure	48A	Automobiles	82	Collision
16	Admiralty	48B	Aviation	83	Commerce
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129	Disorderly Conduct	168	False Imprisonment	207	Incest	251	Manufactures
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Searching by West Topic and Key Number

When you have identified a topic and key number associated with the legal issue you are researching, you can run a Terms and Connectors search using that topic and key number to quickly retrieve cases involving the same legal issue. A topic and key number search does not require a field-restricted format; that is, you do not need to include a field name or abbreviation as part of your search request. For example, to search for cases with headnotes classified under topic 343 (Sales) and key number 255 (Parties; Privity), type **343k255**.

To narrow your search, add search terms. For example, the query **343k255 /p contract** retrieves cases with headnotes classified under topic 343 and key number 255 that also contain the term *contract* in the same digest paragraph.

Topic field searching

You can also retrieve cases with headnotes classified under a specific West digest topic by using a topic field (to) restriction in your Terms and Connectors search. In addition to the topic name and number, the topic field contains the hierarchical classification information, key number, and text of the related key line. For example, to retrieve cases with headnotes classified under topic 409 (Wills), type **to(409)** or **to(wills)**. The broader search is **to(wills)** because it retrieves cases in which the term *wills* is mentioned in the key line or other levels of the hierarchy, even if the headnotes are not classified under topic 409. To narrow your search, add search terms; for example, type **to(409) /p "condition subsequent"**.

Using the West Key Number Digest (Custom Digest)

The West Key Number Digest, also called the Custom Digest, contains the complete topic and key number outline used by West attorney-editors to classify headnotes. The West Key Number Digest helps you identify topic and key numbers related to your issue and retrieve cases with headnotes classified under those topic and key numbers.

To access the West Key Number Digest, click **Key Numbers** at the top of any page, then click **West Key Number Digest Outline** under *Browse Key Numbers*. (Alternatively, click **Custom Digest** at a case law database Search page.) To browse the digest, click the plus (+) and minus (–) symbols.

In addition to browsing the West Key Number Digest for relevant topic and key numbers, you can also search for them using the Search for Key Numbers feature.

To use the Search for Key Numbers feature, complete these steps:

1. Click **Key Numbers** at the top of any page. A page is displayed that contains the *Search for Key Numbers* text box.
2. Type your terms, e.g., **family and medical leave**, in the text box.
3. To change the jurisdiction from which you retrieve case headnotes, click **Change Jurisdiction**, then select the check boxes next to the jurisdictions you want and click **Done**.
4. Click **Search**. A list of topic and key numbers is displayed.
5. Click a topic and key number to view the headnotes classified under that topic and key number. Or select the check boxes next to one or more topic and key numbers and click **Search Selected** to view the headnotes classified under those topic and key numbers.

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